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

# FORM 10-K

(Mark One)

**[X] ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended: **December 31, 2018**

or

**[ ] TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from _____ to _____

Commission file number: 000-55314

# Verb Technology Company, Inc.
(Exact name of registrant as specified in its charter)

| **Nevada** | **90-1118043** |
|---|---|
| State or other jurisdiction of incorporation or organization | (I.R.S. Employer Identification No.) |

**344 S. Hauser Blvd**
**Suite 414**
**Los Angeles, CA 90036**
(Address of principal executive offices and Zip Code)

Registrant's telephone number, including area code: **(855) 250-2300**

Securities registered pursuant to Section 12(b) of the Act

| Title of Each Class | Name of each Exchange on which registered |
|---|---|
| **None** | **None** |

Securities registered pursuant to Section 12(g) of the Act

**Common stock with a par value of $0.0001 per share**
(Title of Class)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

Yes [ ] No [X]

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.

Yes [ ] No [X]

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes [X] No [ ]

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).

Yes [X] No [ ]

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. [X]

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

| | | | |
|---|---|---|---|
| Large accelerated filer | [ ] | Accelerated filer | [ ] |
| Non-accelerated filer | [X] | Smaller reporting company | [X] |
| | | Emerging growth company | [ ] |

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. [ ]

Indicate by check mark with the registrant is a shell company (as defined in Rule 12b-2 of the Act). [ ] Yes [X] No

The aggregate market value of the registrant's voting and non-voting common equity held by non-affiliates (based on the closing price of the registrant's common stock as quoted on the OTC Markets Group Inc.'s QTCQB® tier Venture Market as of the last business day of the registrant's most recently completed second fiscal quarter was approximately $71,720,711.

As of February 1, 2019, there were 12,213,670 shares of common stock, $0.0001 par value per share, outstanding.

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**SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS**

This annual report contains forward-looking statements that involve risks and uncertainties. These forward-looking statements are not historical facts but rather are plans and predictions based on current expectations, estimates, and projections about our industry, our beliefs, and assumptions.

We use words such as "may," "will," "could," "should," "anticipate," "expect," "intend," "project," "plan," "believe," "seek," "assume," and variations of these words and similar expressions to identify forward-looking statements. These statements are not guarantees of future performance and are subject to certain risks, uncertainties, and other factors, some of which are beyond our control, are difficult to predict and could cause actual results to differ materially from those expressed or forecasted in the forward-looking statements. These risks and uncertainties include those described in the section entitled "Risk Factors." You should not place undue reliance on these forward-looking statements because the matters they describe are subject to certain risks, uncertainties, and assumptions that are difficult to predict. Our forward-looking statements are based on the information currently available to us and speak only as of the date on which they were made. Over time, our actual results, performance, or achievements may differ from those expressed or implied by our forward-looking statements, and such difference might be significant and materially adverse to our security holders. Except as required by law, we undertake no obligation to update publicly any forward-looking statements, whether as a result of new information, future events, or otherwise. We have identified some of the important factors that could cause future events to differ from our current expectations and they are described in this Annual Report on Form 10-K ("Annual Report") under the captions "Risk Factors," and "Management's Discussion and Analysis of Financial Condition and Results of Operations," as well as in other documents that we may file with the Securities and Exchange Commission ("SEC"), all of which you should review carefully. Please consider our forward-looking statements in light of those risks as you read this Annual Report.

## PART I

### ITEM 1. BUSINESS

As used in this Annual Report, the terms "we," "us," "our," and the "Company" refer to Verb Technology Company, Inc., a Nevada corporation.

**Corporate Overview – Formation, Corporate Changes and Material Mergers and Acquisitions**

***Organization***

Cutaia Media Group, LLC ("CMG") was organized as a limited liability company under the laws of the State of Nevada on December 12, 2012. On May 19, 2014, CMG merged into bBooth, Inc. and bBooth, Inc., thereafter, changed its name to bBooth (USA), Inc., effective as of October 16, 2014. The operations of CMG and bBooth (USA), Inc., became known as, and are referred to in this Annual Report as, "bBoothUSA."

On October 16, 2014, bBoothUSA was acquired by Global System Designs, Inc. ("GSD"), pursuant to a Share Exchange Agreement entered into with GSD (the "Share Exchange Agreement"). GSD was incorporated in the State of Nevada on November 27, 2012. The acquisition was accounted for as a reverse merger transaction. In connection with the closing of the transactions contemplated by the Share Exchange Agreement, GSD's management was replaced by bBoothUSA's management, and GSD changed its name to bBooth, Inc.

Effective April 21, 2017, we changed our corporate name from bBooth, Inc. to nFüsz, Inc. The name change was effected through a parent/subsidiary short-form merger of nFüsz, Inc., our wholly-owned Nevada subsidiary, formed solely for the purpose of the name change, with and into us. We were the surviving entity. To effectuate the name-change merger, we filed Articles of Merger and a Certificate of Correction (relative to the effective date of the name-change merger) with the Secretary of State of the State of Nevada on April 4, 2017, and April 17, 2017, respectively. The name-change merger became effective on April 21, 2017. Our board of directors approved the name-change merger, which resulted in the name change on that date. In accordance with Section 92A.180 of the Nevada Revised Statutes (the "NRS"), stockholder approval of the merger was not required.

On November 8, 2018, we entered into an Agreement and Plan of Merger (the "Merger Agreement"), by and among Sound Concepts, Inc., a Utah corporation ("Sound Concepts"), NF Merger Sub, Inc., a Utah corporation ("Merger Sub 1"), NF Acquisition Company, LLC, a Utah limited liability company ("Merger Sub 2"), the shareholders of Sound Concepts (the "Sound Concepts Shareholders"), the shareholders' representative (the "Shareholder Representative"), and us, pursuant to which we will acquire Sound Concepts (the "Sound Concepts Acquisition") through a two-step merger, consisting of merging Merger 1 Sub with and into Sound Concepts, with Sound Concepts surviving the "first step" of the merger as our wholly-owned subsidiary (and the separate corporate existence of Merger Sub 1 will cease) and, immediately thereafter, merging Sound Concepts with and into Merger Sub 2, with Merger Sub 2 surviving the "second step" of the merger, such that, upon the conclusion of the "second step" of the merger, the separate corporate existence of Sound Concepts will cease and Merger Sub 2 will continue its limited liability company existence under Utah law as the surviving entity and as our wholly-owned subsidiary (collectively, the "Merger"). On the terms and subject to the conditions set forth in the Merger Agreement, at the effective time of the Merger (the "Effective Time"), each share of Sound Concepts' capital stock issued and outstanding immediately prior to the Effective Time (the "Sound Concepts Capital Stock") will be cancelled and converted into the right to receive a proportionate share of $25,000,000 of value (the "Closing Merger Consideration"), to be payable through a combination of a cash payment by us of $15,000,000 (the "Acquisition Cash Payment") and the issuance of shares of our Common Stock with a fair market value of $10,000,000 (the "Acquisition Stock"). The Closing Merger Consideration is not subject to any closing working capital adjustment or post-closing working capital adjustment. We expect the Sound Concepts Acquisition to close in the first quarter of 2019. However, we cannot provide any assurance as to the actual timing of completion of the Sound Concepts Acquisition, or whether the Sound Concepts Acquisition will be completed at all.

Effective February 1, 2019, we changed our corporate name from nFüsz, Inc. to Verb Technology Company, Inc. The name change was effected through a parent/subsidiary short-form merger of Verb Technology Company, Inc., our wholly-owned Nevada subsidiary, formed solely for the purpose of the name change, with and into us. We were the surviving entity. To effectuate the name-change merger, we filed Articles of Merger with the Secretary of State of the State of Nevada on January 31, 2019. The name-change merger became effective on February 1,, 2019. Our board of directors approved the name-change merger, which resulted in the name change on that date. In accordance with Section 92A.180 of the NRS, stockholder approval of the name-merger was not required.

On February 1, 2019, we implemented a 1-for-15 reverse stock split (the "Reverse Stock Split") of our common stock, $0.0001 par value per share (the "Common Stock"). The Reverse Stock Split became effective upon commencement of trading of our Common Stock on February 4, 2019. As a result of the Reverse Stock Split, every fifteen (15) shares of our pre-Reverse Stock Split Common Stock were combined and reclassified into one share of our Common Stock. The number of shares of Common Stock subject to outstanding options, warrants, and convertible securities were also reduced by a factor of fifteen] as of February 1, 2019. All historical share and per-share amounts reflected throughout our consolidated financial statements and other financial information in this Annual Report have been adjusted to reflect the Reverse Stock Split. The par value per share of our Common Stock was not affected by the Reverse Stock Split.

**Our Business**

We are an applications services provider, marketing cloud-based business software products under the brand name "Tagg" on a subscription basis. Our flagship product, TaggCRM, is a Customer Relationship Management ("CRM") application that is distinguishable from other CRM programs because it utilizes interactive video as the primary means of communication between sales and marketing professionals and their clients or prospects. TaggCRM allows our users to create, distribute, and post interactive videos that contain on-screen clickable "Taggs" which are interactive icons, buttons, and other on-screen elements, that, when clicked, allow their prospects and customers to respond to our users' call to action in real-time, in the video, while the video is playing, without leaving or stopping the video. For example, our technology allows a prospective customer or a prospect the ability to click on a product they see featured in a video and buy it, or to click on a calendar icon in the video to make an appointment with a salesperson, among many other features and functionality. Tagg videos can be distributed via email or text messaging and can be posted on social media. Our users report increased sales conversion rates compared to traditional, non-interactive video.

We developed the proprietary patent-pending interactive video technology that serves as the basis for all of our cloud, Software-as-a-Service ("SaaS") Tagg applications. Our Tagg applications are accessible on all mobile and desktop devices and no software download is required to view the Tagg interactive videos. The Tagg applications also provide detailed analytics in the application dashboard that reflect when the videos were viewed, by whom, how many times, for how long, and what interactive Taggs were clicked-on in the video, among other things, all of which assist our users in focusing their sales and marketing efforts by identifying which clients or prospects have interest in the subject matter of the video. TaggCRM users receive a text message immediately notifying them that a customer prospect received their video and additional text messages notifying them when that customer or prospect watched the video and shared the video so they can follow-up in real-time.

Our Tagg application platform can accommodate any size sales or marketing campaign, and it is enterprise-class scalable to meet the needs of today's global organizations.

Our TaggMED application is designed for physicians and other healthcare providers to create more efficient and effective interactive communications with patients. Patients are able to avoid unnecessary and inconvenient visits to their physicians' or other healthcare providers' offices by viewing and responding to interactive videos through in-video, on-screen clicks that are designed to assess the patient's need for an office visit. If the patient's responses to the interactive video indicate that an office visit is either necessary or desirable, the patient can schedule the office visit right in through video in real time. Patients can also download and print prescriptions, care instructions, and other physician distributed documents right from and through the video. TaggMED is offered on a subscription basis.

Our TaggEDU application is designed for teachers and school administrators for more effective communications with students, parents, and faculty. TaggEDU allows teachers to deliver interactive video lessons to students that are both more engaging and more effective. TaggEDU allows teachers to communicate with students through their mobile devices and computers to deliver lessons and tests/quizzes on the screen and in the Tagg video. The analytics capabilities of TaggEDU available on the application dashboard of the teacher or school administrator allow them to track which students watched the lesson, when, for how long, how many times, and track and report on test/quiz results. TaggEDU is offered on a subscription basis.

Our TaggLIVE application is also part of our proprietary interactive Tagg video applications portfolio. TaggLIVE is a Facebook application that works in conjunction with Facebook Live, allowing users of Facebook Live to place clickable Taggs on the screens of everyone watching their Facebook Live broadcasts in real time. Viewers can click the on-screen Taggs to purchase products and services placed there and offered by the person utilizing our TaggLIVE Facebook application. TaggLIVE is scheduled for release in the first quarter of 2019.

***Revenue Generation***

We intend to generate revenue from the following sources:

- Recurring subscription fees paid by enterprise users for access to our stand-alone applications by enterprise employees or affiliates;
- Recurring subscription fees paid by non-enterprise individual users for access to our stand-alone applications;
- In-app and online purchases by users to access various premium services, features, functionality, and options of the platform (such as the ability to purchase videos from our soon-to-be-released Video Template Store and Creator Program to which users can add their own clickable Taggs), among several other add-on features and functionality;
- Recurring subscription fees paid by enterprise users for access to our applications integrated into large, third-party CRM providers such as Oracle/NetSuite; Marketo, Inc., an Adobe company ("Adobe Marketo"); Salesforce.com, Inc. ("Salesforce.com"); and Microsoft Corporation ("Microsoft"); among others;
- Recurring subscription fees paid by enterprise users who subscribe to bundled service offerings from our partners and/or their respective value-added resellers.

***Our Market***

Our market is intentionally broad and includes sales-based organizations, consumer brands, ad agencies, online marketers, advertisers, sponsors, social media influencers, enterprise users - large and small, religious organizations, health care providers, network marketing and multi-level marketing companies, media companies, major motion picture studios, social media companies, schools and training facilities, and virtually any other person or organization that seeks to attract, engage, and communicate with prospects, customers, consumers, fans, followers, patients, students, friends, and subscribers, among others, online, utilizing automated, interactive video technology.

***Distribution Methods***

Our distribution methods are:

1. Prospective customers and clients can subscribe to our TaggCRM software service on a monthly or annual contract through a simple, web-based sign-up form accessible on our website (https://www.myverb.com), as well as through interactive sign-up links that we distribute via email and text messaging and through social media.

2. Enterprise users can subscribe to our TaggCRM software service and then distribute custom-branded sign-up links to their internal and external staff via email or other electronic means.

3. We have entered into partnership agreements with other CRM providers to incorporate our Tagg interactive video technology into such other CRM providers' software platforms to be offered to their existing and prospective client base for an additional monthly recurring fee, which fee is shared with us. In January 2018, we entered into such an agreement with Oracle America, Inc. "Oracle", to integrate our Tagg interactive video technology into their NetSuite platform on a revenue-share basis. In February 2018, we entered into a similar agreement with Adobe Marketo, to integrate our Tagg interactive video technology into their platform on a revenue-share basis. On January 23, 2019, we entered into an agreement with Microsoft , pursuant to which we will integrate our Tagg interactive video technology into Microsoft's product line, beginning with its email platform, Outlook, and then other Microsoft Office 365 services. On February 4, 2019, we entered into a revenue share partnership agreement with Salesforce.com, pursuant to which we will integrate our Tagg interactive video technology into the Salesforce.com CRM platform.

4. We have entered into license and partnership agreements with digital marketing companies and advertising agencies to resell our Tagg interactive video technology to their existing and prospective client bases for monthly fees which fees are shared with us. In March 2018, we entered into such an agreement with DR2Marketing, LLC to utilize, as well as to resell, our Tagg applications to their clients on a revenue-share basis.

5. We have entered into partnership agreements with large cloud services providers, who will bundle our application with such providers' other applications offered to their existing and prospective global customer base in order to obtain more data storage and bandwidth utilization fees from such customers. On January 23, 2019, we entered into a partnership agreement with Microsoft, pursuant to which we will integrate our Tagg interactive video technology into Microsoft's product line, allowing their resellers to bundle our application for resale to their respective customer bases.

6. We employ a direct sales team, as well as outside sales consultants.

***Marketing***

We utilize our own proprietary interactive video platform as the foundation of our ongoing marketing initiatives. Our initiatives include daily, broad-based social media engagement by a dedicated team of full-time employees and outside consultants; management of our interactive video-based website; interactive video-based email campaigns, television commercials, among many other ongoing initiatives designed to increase awareness of our products and services and drive conversion and adoption rates.

As part of our partnership agreement with Microsoft, we will have access to their "Go-To-Market Services" and technical resources to help us market and sell our integrated products to Microsoft customers, as well as other Microsoft partners and systems integrators in Microsoft's network all over the world.

On December 21, 2018, we entered into an agreement with Major Tom Agency, Inc., a premier digital marketing agency with offices in New York, Toronto and Vancouver, to design, launch and manage a comprehensive national marketing campaign for us. The campaign is expected to launch in late February 2019.

***Competition***

CRM software generated more than $40.7 billion in sales revenue throughout the world in 2017, has grown to become the largest software segment, overtaking data management software, and is expected to reach more than $80 billion in sales revenue by 2025. We are active in the CRM applications industry. We believe that CRM applications that incorporate our proprietary Tagg interactive video technology provide significant competitive advantages over the CRM applications offered by the long-term leaders in the field: Salesforce.com, Microsoft, Oracle, SAP SE, and Adobe Inc. ("Adobe"), which collectively account for approximately 40% of industry sales. These companies, as well as many others, have numerous differences in feature sets and functionality, but all share certain basic attributes. Most of them were designed before the advent and proliferation of mobile phones, social media, and the technology behind the current ubiquity of video over the internet and more recently on mobile devices. While many of them have attempted to incorporate video capabilities into their respective CRM platforms, sometimes in ''bolt-on'' fashion, it is our opinion that none of them has done so in an effective manner, and certainly none of them utilizes interactive video technology similar to ours, which places clickable calls to action right in the video, including into users' pre-existing sales and product videos. In addition, Tagg interactive videos are viewable on both mobile and desktop devices regardless of operating system and without the need to download a proprietary player or program.

These differences serve to highlight the reasons we have chosen not only to develop our own stand-alone SaaS cloud CRM platform, but also to incorporate and integrate our interactive video technology into the platforms of many of these large, long-term leaders in the CRM industry. This allows them to offer Tagg interactive video capabilities to their large enterprise clients and customers as an upgrade feature to their CRM platform subscriptions. The viability of this strategy is evidenced by the partnerships we currently enjoy with Oracle NetSuite and Adobe Marketo, as well as new partnerships with Salesforce.com. and Microsoft, among others. Nevertheless, the market share, marketing strength, and competitive advantages of our competitors may preclude our obtaining any material share of this market.

***Intellectual Property***

Our policy is to protect our technology by, among other things, trade secret protection and copyrights. We primarily rely upon trade secrets and copyrighted proprietary software, code, and know-how to protect our Tagg interactive video technology platform and associated applications. We have taken security measures to protect our trade secrets and proprietary know-how, to the extent possible. Our means of protecting our proprietary rights may not prove to be adequate and our competitors may independently develop technology or products that are similar to ours or that compete with ours. Trade secret and copyright laws afford only limited protection for our technology and products. The laws of many countries do not protect our proprietary rights to as great an extent as do the laws of the United States. Despite our efforts to protect our proprietary rights, unauthorized parties may attempt to obtain and use information that we regard as proprietary. Third parties may also design around our proprietary rights, which may render our protected technology and products less valuable, if the design around is favorably received in the marketplace.

We recently filed a patent application with the U.S. Patent and Trademark Office, or "PTO," with respect to our interactive video technology. Our patent application may not result in an issued patent in a timely manner, or at all. Any patents that may be issued in the future may not protect commercially important aspects of our technology. Furthermore, the validity and enforceability of such patents issued in the future may be challenged by third parties and could be invalidated or modified by the PTO. Third parties may independently develop technology that is not covered by our patents, that is similar to, or competes with, our technology. In addition, our intellectual property may be infringed or misappropriated by third parties, particularly in foreign countries where the laws and governmental authorities may not protect our proprietary rights as effectively as those in the United States.

In addition, if any of our products or technology is covered by third-party patents or other intellectual property rights, we could be subject to various legal actions. We cannot assure you that our technology platform and products do not infringe patents held by others or that they will not in the future. Litigation may be necessary to enforce our intellectual property rights, to protect our trade secrets, to determine the validity and scope of the proprietary rights of others, or to defend against claims of infringement, invalidity, misappropriation, or other claims.

***Research and Development***

We incurred $980,000 and $375,000 of research and development expenses during the fiscal years ended December 31, 2018 and 2017, respectively. These funds were primarily used for development of our Tagg interactive video CRM software.

***Suppliers***

We currently rely on a full-time, dedicated, external team of experienced professionals for the coding and maintenance of our software. We believe we have mitigated the associated risks of managing an external team of software development professionals by incorporating internal management and oversight, as well as appropriate systems, protocols, controls, and procedures and ensuring that we have access to additional qualified professionals to provide like or complementary services.

***Dependence on Key Customers***

Based on our current business and anticipated future activities as described in this Annual Report, we do not have, and do not expect to have, any significant customer concentration. Accordingly, we do not expect to be dependent on any key customers.

***Government Regulation***

Government regulation is not of significant concern for our business nor is government regulation expected to become an impediment to the business in the near- or mid-term as management is currently unaware of any planned or anticipated government regulation that would have a material impact on our business. Our management believes it currently possesses all requisite authority to conduct our business as described in this Annual Report.

***Employees***

As of February 1, 2019, we had 10 full-time statutory employees, and 14 full-time consultants and contractors. We also employ consultants and contractors on an as-needed-basis to provide specific expertise in areas of software design, development and coding, content creation, audio and video editing, video production services, and other business functions, including marketing and accounting. None of our employees or consultants, are currently covered by a collective bargaining agreement. We have had no labor-related work stoppages and believe our relationship with our employees, consultants, and consultants, both full-time and part-time, is good.

**ITEM 1A. RISK FACTORS**

The following is a discussion of the primary factors that may affect the operations and/or financial performance of our business. Refer to the section entitled *Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations* of this Annual Report for an additional discussion of these and other related factors that affect our operations and/or financial performance.

Risks Related to Our Business

***We have incurred significant net losses and cannot assure you that we will achieve or maintain profitable operations.***

To date, we have not generated any significant revenues from our operations and have incurred losses since inception. Our net loss was $12,127,000 for the year ended December 31, 2018 and $7,266,000 for the year ended December 31, 2017. As of December 31, 2018, we had stockholders' deficit of $5,055,000. We may continue to incur significant losses in the future for a number of reasons, including unforeseen expenses, difficulties, complications, and delays, and other unknown events.

We anticipate that our operating expenses will increase substantially in the foreseeable future as we undertake increased technology and production efforts to support our business and increase our marketing and sales efforts to drive an increase in the number of customers and clients utilizing our services. These expenditures may make it more difficult to achieve and maintain profitability. In addition, our efforts to grow our business may be more expensive than we expect, and we may not be able to generate sufficient revenue to offset increased operating expenses. If we are forced to reduce our expenses, our growth strategy could be compromised. To offset these anticipated increased operating expenses, we will need to generate and sustain significant revenue levels in future periods in order to become profitable, and, even if we do, we may not be able to maintain or increase our level of profitability.

Accordingly, we cannot assure you that we will achieve sustainable operating profits as we continue to expand our infrastructure, restructure our balance sheet, further develop our marketing efforts, and otherwise implement our growth initiatives. Any failure to achieve and maintain profitability would have a materially adverse effect on our ability to implement our business plan, our results and operations, and our financial condition, and could cause the value of our Common Stock, to decline, resulting in a significant or complete loss of your investment.

***Our independent registered public accounting firm's reports for the fiscal years ended December 31, 2018 and 2017 have raised substantial doubt as to our ability to continue as a "going concern."***

Our independent registered public accounting firm indicated in its report on our audited consolidated financial statements as of and for the years ended December 31, 2018 and 2017 that there is substantial doubt about our ability to continue as a going concern. A "going concern" opinion indicates that the financial statements have been prepared assuming we will continue as a going concern and do not include any adjustments to reflect the possible future effects on the recoverability and classification of assets, or the amounts and classification of liabilities that may result if we do not continue as a going concern. Therefore, you should not rely on our consolidated balance sheet as an indication of the amount of proceeds that would be available to satisfy claims of creditors, and potentially be available for distribution to stockholders, in the event of liquidation. The presence of the going concern note to our financial statements may have an adverse impact on the relationships we are developing and plan to develop with third parties as we continue the commercialization of our products and could make it challenging and difficult for us to raise additional financing, all of which could have a material adverse impact on our business and prospects and result in a significant or complete loss of your investment.

***Our ability to grow and compete in the future will be adversely affected if adequate capital is not available to us or not available on terms favorable to us.***

We have limited capital resources. To date, we have financed our operations entirely through equity investments by founders and other investors and the incurrence of debt, and we expect to continue to do so in the foreseeable future. Our ability to continue our normal and planned operations, to grow our business, and to compete in our industry will depend on the availability of adequate capital.

We cannot assure you that we will be able to obtain additional funding from those or other sources when or in the amounts needed, on acceptable terms, or at all. If we raise capital through the sale of equity, or securities convertible into equity, it would result in dilution to our then-existing stockholders, which could be significant depending on the price at which we may be able to sell our securities. If we raise additional capital through the incurrence of additional indebtedness, we would likely become subject to further covenants restricting our business activities, and holders of debt instruments may have rights and privileges senior to those of our then-existing stockholders. In addition, servicing the interest and principal repayment obligations under debt facilities could divert funds that would otherwise be available to support development of new programs and marketing to current and potential new clients. If we are unable to raise capital when needed or on attractive terms, we could be forced to delay, reduce, or eliminate development of new programs or future marketing efforts, or reduce or discontinue our operations. Any of these events could significantly harm our business, financial condition, and prospects.

***Our business depends on customers increasing their use of our services and/or platform, and we may experience loss of customers or decline in their use of our services and/or platform.***

Our ability to grow and generate revenue depends, in part, on our ability to maintain and grow our relationships with existing customers and convince them to increase their usage of our platform. If our customers do not increase their use of our platform, then our revenue may not grow and our results of operations may be harmed. It is difficult to predict customers' usage levels accurately and the loss of customers or reductions in their usage levels may have a negative impact on our business, results of operations, and financial condition. If a significant number of customers cease using, or reduce their usage of, our platform, then we may be required to spend significantly more on sales and marketing than we currently plan to spend in order to maintain or increase revenue from customers. These additional expenditures could adversely affect our business, results of operations, and financial condition. Most of our customers do not have long-term contractual financial commitments to us and, therefore, most of our customers could reduce or cease their use of our platform at any time without penalty or termination charges.

***The market in which we operate is dominated by large, well established competitors.***

The CRM industry is currently dominated by Salesforce.com, Microsoft, Oracle, SAP SE, and Adobe, which collectively account for approximately 40% of industry sales. The CRM applications offered by these companies, as well as by many others, have numerous differences in feature sets and functionality, but all share certain basic attributes. Most of them were designed before the advent and proliferation of mobile phones, social media, and the technology behind the current ubiquity of video over the internet and more recently on mobile devices. While many of our competitors have attempted to incorporate video capabilities into their respective CRM platforms, none of them utilize interactive video technology similar to that of ours. In addition, our Tagg interactive videos are viewable on both mobile and desktop devices regardless of operating system and without the need to download a proprietary player or program.

***The market in which we operate is intensely competitive and, if we do not compete effectively, our operating results could be harmed.***

The market for CRM applications is intensely competitive and rapidly changing, barriers to entry are relatively low, many of our competitors are larger and have more resources than we do, and, with the introduction of new technologies and market entrants, we expect competition to intensify in the future. If we fail to compete effectively, our operating results will be harmed.

Notwithstanding the competitive edge that we believe our Tagg interactive video capability provides our CRM applications, many of our competitors enjoy other substantial competitive advantages, such as greater name recognition, longer operating histories, and larger marketing budgets, as well as substantially greater financial, technical, and other resources. In addition, many of our potential competitors have established marketing relationships and access to larger customer bases, and have major distribution agreements with consultants, system integrators, and resellers.

As a result, our competitors may be able to respond more effectively than we can to new or changing opportunities, technologies, standards, or customer requirements. Furthermore, because of these advantages, even if our products and services are more effective than the products and services that our competitors offer, potential customers might accept competitive products and services in lieu of purchasing our products and services. For all of these reasons, we may not be able to compete successfully against our current and future competitors

***We may not be able to increase the number of our partners or grow the revenues received from our current partnership relationships.***

The differences between our Tagg interactive video CRM applications and many of the larger, more established providers of CRM software may serve to highlight the reasons we have chosen not only to develop our own stand-alone SaaS cloud CRM platform, but also to incorporate and integrate our interactive video technology into the platforms of many of these large, long-term leaders in the CRM industry. This allows them to offer Tagg interactive video capabilities to their large enterprise clients and customers as an upgrade feature to their CRM platform subscriptions. The viability of this strategy is evidenced by the partnerships we currently enjoy with Oracle NetSuite and Adobe Marketo, as well as new partnerships with Salesforce.com. and Microsoft, among others. There can be no assurance, however, that those relationships will result in material revenues for us or that we will be able to generate any other meaningful partnerships.

***We may not be able to develop enhancements and new features to our existing service or acceptable new services that keep pace with technological developments.***

Even though we believe that our Tagg interactive video CRM applications are currently unsurpassed in features and ease of use, technology invariably advances. If we are unable to develop enhancements to, and new features for, our Tagg interactive video CRM applications that keep pace with rapid technological developments, our business will be harmed. The success of enhancements, new features, and services depends on several factors, including the timely completion, introduction, and market acceptance of the feature or edition. Failure in this regard may significantly impair our revenue growth. We may not be successful in either developing these modifications and enhancements or in timely bringing them to market at a competitive price or at all. Furthermore, notwithstanding that our Tagg interactive videos are currently viewable on both mobile and desktop devices regardless of operating system, potential uncertainties about the timing and nature of new network platforms or technologies, or modifications to existing platforms or technologies, could increase our research and development expenses. Any failure of our service to operate effectively with future network platforms and technologies could reduce the demand for our service, result in customer dissatisfaction, and harm our business.

***Our ability to deliver our services is dependent on the maintenance of the infrastructure of the Internet by third parties.***

The Internet's infrastructure is comprised of many different networks and services that, by design, are highly fragmented and distributed. This infrastructure is run by a series of independent, third-party organizations that work together to provide the infrastructure and supporting services of the Internet under the governance of the Internet Corporation for Assigned Numbers and Names (ICANN) and the Internet Assigned Numbers Authority (IANA), which is now related to ICANN.

The Internet has experienced, and will continue to experience, a variety of outages and other delays due to damages to portions of its infrastructure, denial-of-service attacks, or related cyber incidents. These scenarios are not under our control and could reduce the availability of the Internet to us or our customers for delivery of our services. Any resulting interruptions in our services or the ability of our customers to access our services could result in a loss of potential or existing customers and harm our business.

***Security breaches and other disruptions could compromise our information and expose us to liability, which would cause our business and reputation to suffer.***

In the ordinary course of our business, we collect and store sensitive data, including intellectual property, our proprietary business information and that of our customers, and personally identifiable information of our customers and employees. The secure processing, maintenance, and transmission of this information is critical to our operations and business strategy. Despite our security measures, our information technology and infrastructure may be vulnerable to attacks by hackers or breached due to employee error, malfeasance, or other disruptions. Any such breach could compromise our networks and the information stored there could be accessed, publicly disclosed, lost, or stolen. Advanced attacks are multi-staged, unfold over time, and utilize a range of attack vectors with military-grade cyber weapons and proven techniques, such as spear phishing and social engineering, leaving organizations and users at high risk of being compromised. The vast majority of data breaches, whether conducted by a cyber attacker from inside or outside of the organization, involve the misappropriation of digital identities and user credentials. These credentials are used to gain legitimate access to sensitive systems and high-value personal and corporate data. Many large, well-known organizations have been subject to cyber-attacks that exploited the identity vector, demonstrating that even organizations with significant resources and security expertise have challenges securing their identities. Any such access, disclosure, or other loss of information could result in legal claims or proceedings, liability under laws that protect the privacy of personal information, regulatory penalties, a disruption of our operations, damage to our reputation, or a loss of confidence in our business, any of which could adversely affect our business, revenues, and competitive position.

***Organizations face growing regulatory and compliance requirements.***

New and evolving regulations and compliance standards for cyber security, data protection, privacy, and internal IT controls are often created in response to the tide of cyber-attacks and will increasingly impact organizations. Existing regulatory standards require that organizations implement internal controls for user access to applications and data. In addition, data breaches are driving a new wave of regulation, such as the European Union's General Data Protection Regulation, with stricter enforcement and higher penalties. Regulatory and policy-driven obligations require expensive and time-consuming compliance measures. The fear of non-compliance, failed audits, and material findings has pushed organizations to spend more to ensure they are in compliance, often resulting in costly, one-off implementations to mitigate potential fines or reputational damage. The high costs associated with failing to meet regulatory requirements, combined with the risk of fallout from security breaches, has elevated this topic from the IT organization to the executive and board level.

***Our business is highly competitive and any failure to adapt to changing consumer preferences may adversely affect our business and financial results.***

We operate in a highly competitive, consumer-driven, and rapidly changing environment. Our success will, to a large extent, be dependent on our ability to acquire, develop, adopt, upgrade, and exploit new and existing technologies to address consumers' changing demands and distinguish our products and services from those of our competitors. We may not be able to accurately predict technological trends or the success of new products and services. If we choose technologies or equipment that are less effective, cost-efficient, or attractive to our customers than those chosen by our competitors, or if we offer products or services that fail to appeal to consumers, are not available at competitive prices, or that do not function as expected, our competitive position could deteriorate, and our business and financial results could suffer.

The ability of our competitors to introduce new technologies, products, and services more quickly than we do may adversely affect our competitive position. Furthermore, advances in technology, decreases in the cost of existing technologies, or changes in competitors' product and service offerings may require us in the future to increase research and development expenditures or to offer products and services at no or a reduced additional charge or at a lower price. In addition, the uncertainty of our ability, and the costs, to obtain intellectual property rights from third parties could impact our ability to respond to technological advances in a timely and effective manner. If we are unable to compete with existing companies successfully and new entrants to the markets in which we compete in, our business, results of operations, and financial condition could be adversely affected.

***We expect that the success of our business will be highly correlated to general economic conditions.***

We expect that demand for our products and services will be highly correlated with general economic conditions, as we expect a substantial portion of our revenue will be derived from discretionary spending by individuals, which typically falls during times of economic instability. Declines in economic conditions in the United States or in other countries in which we may operate may adversely impact our financial results. Because such declines in demand are difficult to predict, we or our industry may have increased excess capacity as a result. An increase in excess capacity may result in declines in prices for our products and services. Our ability to grow or maintain our business may be adversely affected by sustained economic weakness and uncertainty, including the effect of wavering consumer confidence, high unemployment, and other factors. The inability to grow or maintain our business would adversely affect our business, financial conditions, and results of operations, and thereby an investment in our Common Stock.

***We do not currently have any patents to protect our technologies and thus, we may not gain market share from our competitors and be unable to operate our business profitably.***

Our success depends significantly on our ability to protect our rights to the technologies used in our products and services. We recently filed a patent application with the PTO with respect to our interactive video technology. Currently, we do not have any issued patents and we rely on copyright, trade secrets, and nondisclosure, confidentiality and other contractual arrangements to protect our technology and intellectual property rights. However, these legal means afford only limited protection and may not adequately protect our rights or permit us to gain or maintain any competitive advantage. In addition, we cannot be assured that our pending patent application, or any future patent applications, will result in the issuance of a patent to us in a timely manner, or at all, or that we will have the financial or operational resources successfully to prosecute any patents that we may undertake. The PTO may deny or require significant narrowing of claims in our currently pending or any future patent applications, and patents issued as a result thereof, if any, may not provide us with significant commercial protection or be issued in a form that is advantageous to us. We could also incur substantial costs in proceedings before the PTO. Our pending patent application, and any future patent applications, may be challenged, which could reduce our ability to stop competitors from marketing related technologies. There can also be no assurance that competitors will not be able to design around any patents that may be issued to us in the future. In addition, we rely on unpatented proprietary technology. We cannot assure you that we can meaningfully protect all our rights in our unpatented proprietary technology or that others will not independently develop substantially equivalent proprietary products or processes or otherwise gain access to our unpatented proprietary technology.

We seek to protect our know-how and other unpatented proprietary technology with confidentiality agreements and intellectual property assignment agreements with our employees, our partners, independent distributors, and consultants. However, such agreements may not be enforceable or may not provide meaningful protection for our proprietary information in the event of unauthorized use or disclosure or other breaches of the agreements or in the event that our competitors discover or independently develop similar or identical designs or other proprietary information. We currently do not utilize any registered or common law trademarks to protect or brand the name of any of our products.

Although we believe that we have a proprietary platform for our technologies and products, we cannot determine with certainty whether any existing third-party patents or the issuance of any third-party patents would require us to alter our technology, obtain licenses, or cease certain activities. We may become subject to claims by third parties that our technology infringes their intellectual property rights.

***We do not own any patents relating to our Tagg interactive video CRM platform.***

We do not currently own any domestic or foreign patents relating to our Tagg interactive video CRM applications platform; however, we recently filed a patent application with the PTO with respect to our interactive video technology. We also do not currently have any licenses to use any third-party intellectual property. As such, if we are not successful in obtaining intellectual property rights covering our products or obtaining licenses to use a third-party's intellectual property on reasonable and acceptable terms, it could result in lawsuits against us for trademark and/or intellectual property infringement, and we may not be able to counterclaim with our own infringement allegations. Any such infringement, litigation, or adverse proceeding could result in substantial costs and diversion of resources and could seriously harm our business operations or results of operations. There can also be no assurance that competitors will not be able to duplicate our interactive video technology or that our competitors will not independently develop substantially equivalent proprietary products or processes or otherwise gain access to our unpatented proprietary technology.

***If we are unable to protect and enforce our intellectual property rights, we may be unable to compete effectively.***

We believe that our intellectual property rights are important to our success and our competitive position, and we rely on a combination of copyright and trade secret laws and restrictions on disclosure to protect our intellectual property rights. Although we have devoted substantial resources to the establishment and protection of our intellectual property rights, the actions taken by us may be inadequate to prevent imitation or improper use of our products and services by others or to prevent others from claiming violations of their intellectual property rights by us. We also rely on confidentiality procedures and contractual provisions with our employees, consultants, and corporate partners to protect our proprietary rights, but we cannot assure the compliance by such parties with their confidentiality obligations, which could be very time consuming and expensive to enforce.

***Legal challenges to our intellectual property rights could adversely affect our financial results and operations.***

We rely on licenses and other agreements in respect of our intellectual property with our partners and other parties and other intellectual property rights to conduct our operations. Legal challenges to our intellectual property rights and claims of intellectual property infringement by third parties could require that we enter into royalty or licensing agreements on unfavorable terms, incur substantial monetary liability, or be enjoined preliminarily or permanently from further use of the intellectual property in question or from the continuation of our businesses as currently conducted. We may need to change our business practices if any of these events occur, which may limit our ability to compete effectively and could have an adverse effect on our results of operations. Even if we believe any such challenges or claims are without merit, they can be time-consuming and costly to defend and divert management's attention and resources away from our business.

***Our success depends, in part, on the capacity, reliability, and security of our information technology hardware and software infrastructure, as well as our ability to adapt and expand our infrastructure.***

The capacity, reliability, and security of our information technology hardware and software infrastructure are important to the operation of our current business, which would suffer in the event of system failures. Likewise, our ability to expand and update our information technology infrastructure in response to our growth and changing needs is important to the continued implementation of our new service offering initiatives. Our inability to expand or upgrade our technology infrastructure could have adverse consequences, including the delayed provision of services or implementation of new service offerings, and the diversion of development resources. We rely on third parties for various aspects of our hardware and software infrastructure. Third parties may experience errors or disruptions that could adversely impact us and over which we may have limited control. Interruption and/or failure of any of these systems could disrupt our operations and damage our reputation, thus adversely impacting our ability to provide our products and services, retain our current users, and attract new users. In addition, our information technology hardware and software infrastructure may be vulnerable to unauthorized access, misuse, computer viruses, or other events that could have a security impact. If one or more of such events occur, our customer and other information processed and stored in, and transmitted through, our information technology hardware and software infrastructure, or otherwise, could be compromised, which could result in significant losses or reputational damage. We may be required to expend significant additional resources to modify our protective measures or to investigate and remediate vulnerabilities or other exposures, and we may be subject to litigation and financial losses, any of which could substantially harm our business and our results of operations.

***We are dependent on third parties to, among other things, maintain our servers, provide the bandwidth necessary to transmit content, and utilize the content derived therefrom for the potential generation of revenues.***

We depend on third-party service providers, suppliers, and licensors to supply some of the services, hardware, software, and operational support necessary to provide some of our products and services. Some of these third parties do not have a long operating history or may not be able to continue to supply the equipment and services we desire in the future. If demand exceeds these vendors' capacity, or if these vendors experience operating or financial difficulties or are otherwise unable to provide the equipment or services we need in a timely manner, at our specifications and at reasonable prices, our ability to provide some products and services might be materially adversely affected, or the need to procure or develop alternative sources of the affected materials or services might delay our ability to serve our users. These events could materially and adversely affect our ability to retain and attract users, and have a material negative impact on our operations, business, financial results, and financial condition.

***We may not be able to find suitable software developers at an acceptable cost.***

We currently rely on certain key suppliers and vendors in the coding and maintenance of our software. We will continue to require such expertise in the future. Due to the current demand for skilled software developers, we run the risk of not being able to find or retain suitable and qualified personnel at an acceptable price, or at all. Without these developers, we may not be able to further develop and maintain our software, which is the most important aspect of our business development

***Our business may be affected by changing consumer preferences or by failure of the public to accept any new product offerings we may pursue.***

The production and distribution of entertainment content is an inherently risky business because the revenue that may be derived depends primarily on the content's acceptance by the public, which is difficult to predict. Consumer and audience tastes change frequently, and it is a challenge to anticipate what offerings will be successful at a certain point in time. In addition, competing entertainment content, the availability of alternative forms of entertainment and leisure time activities, general economic conditions, piracy, and increasing digital and on-demand distribution offerings may also affect the audience for our content. Our expenses may increase as we invest in new programming ideas, and there is no guarantee that the new programming will be successful or generate sufficient revenue to recoup the expenditures.

***Our future success depends on our key executive officers and our ability to attract, retain, and motivate qualified personnel.***

Our future success largely depends upon the continued services of our executive officers and management team, especially our Chief Executive Officer and President, Mr. Rory J. Cutaia. If one or more of our executive officers are unable or unwilling to continue in their present positions, we may not be able to replace them readily, if at all. Additionally, we may incur additional expenses to recruit and retain new executive officers. If any of our executive officers joins a competitor or forms a competing company, we may lose some or all of our customers. Finally, we do not maintain "key person" life insurance on any of our executive officers. Because of these factors, the loss of the services of any of these key persons could adversely affect our business, financial condition, and results of operations, and thereby an investment in our stock.

Our continuing ability to attract and retain highly qualified personnel will also be critical to our success because we will need to hire and retain additional personnel as our business grows. There can be no assurance that we will be able to attract or retain highly qualified personnel. We face significant competition for skilled personnel in our industries. This competition may make it more difficult and expensive to attract, hire, and retain qualified managers and employees. Because of these factors, we may not be able to effectively manage or grow our business, which could adversely affect our financial condition or business. As a result, the value of your investment could be significantly reduced or completely lost.

***Risks Related to an Investment in Our Securities***

***Our board of directors is authorized to issue additional shares of our Common Stock that would dilute existing stockholders.***

We are authorized to issue up to 200,000,000 shares of Common Stock and 15,000,000 shares of preferred stock, par value $0.0001 per share, of which 12,213,670 shares of Common Stock and no shares of preferred stock are currently issued and outstanding as of February 1, 2019. The number of shares of Common Stock issued and outstanding as of February 1, 2019 excludes 2,315,640 shares of Common Stock issuable upon exercise of stock options, 168,600 shares of Common Stock reserved for issuance under the Plan, 778,443 shares of Common Stock potentially issuable upon the exercise of all outstanding warrants, and 516,078 shares of Common Stock potentially issuable upon the conversion of all outstanding convertible notes. We expect to seek additional financing in order to provide working capital to our business. Our board of directors has the power to issue any or all of such authorized but unissued shares of our Common Stock at any price and, in respect of the preferred stock, at any price and with any attributes, our board of directors considers sufficient, without stockholder approval. The issuance of additional shares of Common Stock in the future will reduce the proportionate ownership and voting power of current stockholders and may negatively impact the market price of our Common Stock.

***We may issue additional securities with rights superior to those of our Common Stock, which could materially limit the ownership rights of our stockholders.***

We may offer additional debt or equity securities in private and/or public offerings in order to raise working capital or to refinance our debt. Our board of directors has the right to determine the terms and rights of any debt securities and preferred stock without obtaining the approval of our stockholders. It is possible that any debt securities or preferred stock that we sell would have terms and rights superior to those of our Common Stock and may be convertible into shares of our Common Stock. Any sale of securities could adversely affect the interests or voting rights of the holders of our Common Stock, result in substantial dilution to existing stockholders, or adversely affect the market price of our Common Stock.

***Trading on the OTC Markets Group Inc.'s OTCQB® tier Venture Market (the "OTCQB") may be volatile and sporadic, which could depress the market price of our common stock and make it difficult for our stockholders to resell their shares.***

Our common stock is quoted on the OTCQB. Trading in stock quoted on over-the-counter markets is often thin and characterized by wide fluctuations in trading prices, due to many factors that may have little to do with our operations or business prospects. This volatility could depress the market price of our Common Stock for reasons unrelated to operating performance. Moreover, the OTCQB is not a stock exchange, and trading of securities on this market is often more sporadic than the trading of securities listed on a national securities exchange like, NASDAQ or the NYSE. Accordingly, stockholders may have difficulty reselling any of our shares.

***We have applied for listing of our Common Stock on NASDAQ. We can provide no assurance that our Common Stock will qualify to be listed, and, if listed, that our Common Stock will thereafter always meet NASDAQ continued listing standards.***

Our Common Stock is currently quoted on the OTCQB. We anticipate that our Common Stock will be eligible to be listed on NASDAQ in the near future; however, we can provide no assurance that our application will be approved, and that an active trading market on NASDAQ for our Common Stock will develop and continue. If our Common Stock remains quoted on or reverts to an over-the-counter system rather than being listed on a national securities exchange, you may find it more difficult to dispose of shares of our Common Stock or obtain accurate quotations as to the market value of our Common Stock.

***If NASDAQ approves our application to list our Common Stock and we are not able to comply with the applicable continued listing standards of NASDAQ, NASDAQ could delist our Common Stock.***

Recently, we have applied to list our Common Stock on NASDAQ. There is no assurance that our Common Stock will ever be listed on NASDAQ. Should our Common Stock be listed on NASDAQ, in order to maintain that listing, we must satisfy minimum financial and other continued listing standards, including those regarding director independence and independent committee requirements, minimum stockholders' equity, minimum share price, and certain corporate governance requirements. There can be no assurances that we will be able to comply with such applicable continued listing standards.

***The market price of our Common Stock has been, and may continue to be, subject to substantial volatility.***

The market price of our Common Stock may fluctuate significantly in response to numerous factors, many of which are beyond our control, including;

- volatility in the trading markets generally and in our particular market segment;
- limited trading of our Common Stock;
- actual or anticipated fluctuations in our results of operations;

- the financial projections we may provide to the public, any changes in those projections, or our failure to meet those projections;
- announcements regarding our business or the business of our customers or competitors;
- changes in accounting standards, policies, guidelines, interpretations, or principles;
- actual or anticipated developments in our business or our competitors' businesses or the competitive landscape generally;
- developments or disputes concerning our intellectual property or our offerings, or third-party proprietary rights;
- announced or completed acquisitions of businesses or technologies by us or our competitors;
- new laws or regulations or new interpretations of existing laws or regulations applicable to our business;
- any major change in our board of directors or management;
- sales of shares of our Common Stock by us or by our stockholders;
- lawsuits threatened or filed against us; and
- other events or factors, including those resulting from war, incidents of terrorism, or responses to these events.

Statements of, or changes in, opinions, ratings, or earnings estimates made by brokerage firms or industry analysts relating to the markets in which we operate or expect to operate could have an adverse effect on the market price of our Common Stock. In addition, the stock market as a whole, as well as our particular market segment, has from time to time experienced extreme price and volume fluctuations, which may affect the market price for the securities of many companies, and which often have appeared unrelated to the operating performance of such companies. Any of these factors could negatively affect our stockholders' ability to sell their shares of Common Stock at the time and price they desire.

***A decline in the price of our Common Stock could affect our ability to raise further working capital, which could adversely impact our ability to continue operations.***

A prolonged decline in the price of our Common Stock could result in a reduction in the liquidity of our Common Stock and a reduction in our ability to raise capital. We may attempt to acquire a significant portion of the funds we need in order to conduct our planned operations through the sale of equity securities; thus, a decline in the price of our Common Stock could be detrimental to our liquidity and our operations because the decline may adversely affect investors' desire to invest in our securities. If we are unable to raise the funds we require for all of our planned operations, we may be forced to reallocate funds from other planned uses and may suffer a significant negative effect on our business plan and operations, including our ability to develop new products or services and continue our current operations. As a result, our business may suffer, and we may be forced to reduce or discontinue operations. We also might not be able to meet our financial obligations if we cannot raise enough funds through the sale of our Common Stock and we may be forced to reduce or discontinue operations.

***Because we do not intend to pay any cash dividends on our shares of Common Stock in the near future, our stockholders will not be able to receive a return on their shares unless and until they sell them.***

We intend to retain any future earnings to finance the development and expansion of our business. We do not anticipate paying any cash dividends on our Common Stock in the near future. The declaration, payment, and amount of any future dividends will be made at the discretion of our board of directors, and will depend upon, among other things, the results of operations, cash flows, and financial condition, operating and capital requirements, and other factors as our board of directors considers relevant. There is no assurance that future dividends will be paid, and, if dividends are paid, there is no assurance with respect to the amount of any such dividend. Unless our board of directors determines to pay dividends, our stockholders will be required to look to appreciation of our Common Stock to realize a gain on their investment. There can be no assurance that this appreciation will occur.

***If we are unable to establish appropriate internal financial reporting controls and procedures, it could cause us to fail to meet our reporting obligations, result in the restatement of our financial statements, harm our operating results, subject us to regulatory scrutiny and sanction, cause investors to lose confidence in our reported financial information and have a negative effect on the market price for shares of our Common Stock.***

Effective internal controls are necessary for us to provide reliable financial reports and to effectively prevent fraud. We maintain a system of internal control over financial reporting, which is defined as a process designed by, or under the supervision of, our principal executive officer and principal financial officer, or persons performing similar functions, and effected by our board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles ("GAAP").

As a public company, we have significant requirements for enhanced financial reporting and internal controls. We are required to document and test our internal control procedures in order to satisfy the requirements of Section 404 of the *Sarbanes-Oxley Act of 2002*, which requires annual management assessments of the effectiveness of our internal controls over financial reporting. The process of designing and implementing effective internal controls is a continuous effort that requires us to anticipate and react to changes in our business and economic and regulatory environments, and to expend significant resources to maintain a system of internal controls that is adequate to satisfy our reporting obligations as a public company.

We cannot assure you that we will, in the future, identify areas requiring improvement in our internal control over financial reporting. We cannot assure you that the measures we will take to remediate any areas in need of improvement will be successful or that we will implement and maintain adequate controls over our financial processes and reporting in the future as we continue our growth. If we are unable to establish appropriate internal financial reporting controls and procedures, it could cause us to fail to meet our reporting obligations, result in the restatement of our financial statements, harm our operating results, subject us to regulatory scrutiny and sanction, cause investors to lose confidence in our reported financial information and have a negative effect on the market price for shares of our Common Stock.

***We lack sufficient internal controls over financial reporting and implementing acceptable internal controls will be difficult with a limited number of directors and management personnel, which will make it difficult to ensure that information required to be disclosed in our reports filed and submitted under the Securities Exchange Act of 1934, as amended (the "Exchange Act") is recorded, processed, summarized, and reported as and when required.***

As of the date of this filing, we currently lack certain internal controls over our financial reporting. While we have recently appointed two independent directors to our board of directors, one of whom was appointed to chair our audit committee, and have hired a new Chief Technology Officer, we still have a limited number of directors and management personnel, which may make it difficult to implement such controls at this time. The lack of such controls makes it difficult to ensure that information required to be disclosed in our reports filed and submitted under the Exchange Act is recorded, processed, summarized, and reported as and when required.

The reasons we believe that our disclosure controls and procedures are not fully effective are because:

- there is a lack of segregation of duties necessary for a good system of internal control due, to insufficient accounting staff due to our size;
- the staffing of our accounting department is weak due to the lack of qualifications and training, and the lack of formal review process;
- our control environment is weak due to the lack of an effective risk assessment process, the lack of internal audit function, and insufficient documentation and communication of the accounting policies; and
- failure in the operating effectiveness over controls related to recording revenue.

We cannot assure you that we will be able to develop and implement the necessary internal controls over financial reporting. The absence of such internal controls may inhibit investors from purchasing our shares and may make it more difficult for us to raise debt or equity financing.

***Because our directors and executive officers are among our largest stockholders, they can exert significant control over our business and affairs and have actual or potential interests that may depart from those of investors.***

Certain of our executive officers and directors own a significant percentage of our outstanding capital stock. As of the date of this Annual Report, we estimate that our executive officers and directors and their respective affiliates beneficially own approximately 34.4% of our outstanding voting stock, on a fully-diluted basis, as of February 1, 2019. The holdings of our directors and executive officers may increase further in the future upon vesting or other maturation of exercise rights under any of the options or warrants they may hold or in the future be granted, or if they otherwise acquire additional shares of our Common Stock. The interests of such persons may differ from the interests of our other stockholders. As a result, in addition to their board seats and offices, such persons will have significant influence and control over all corporate actions requiring stockholder approval, irrespective of how our other stockholders may vote, including the following actions:

- to elect or defeat the election of our directors;
- to amend or prevent amendment to our Articles of Incorporation ("Articles of Incorporation") or Bylaws ("Bylaws");
- to effect or prevent a merger, sale of assets or other corporate transaction; and
- to control the outcome of any other matter submitted to our stockholders for a vote.

This concentration of ownership by itself may have the effect of impeding a merger, consolidation, takeover, or other business consolidation, or discouraging a potential acquirer from making a tender offer for our Common Stock, which in turn could reduce our stock price or prevent our stockholders from realizing a premium over our stock price.

***Our Common Stock historically has been categorized as "penny stock," which may make it more difficult for investors to sell their shares of Common Stock due to suitability requirements.***

Until February 1, 2019, the effective date of the Reverse Stock Split, our Common Stock was categorized as "penny stock." The SEC adopted Rule 15g-9, which generally defines "penny stock" to be any equity security that has a market price (as defined) less than $5.00 per share or an exercise price of less than $5.00 per share, subject to certain exceptions. Historically, the price of our Common Stock has been significantly less than $5.00 per share and we did not qualify for any of the other exceptions; therefore, prior to the Reverse Stock Split, our Common Stock was considered "penny stock." This designation imposes additional sales practice requirements on broker-dealers who sell to persons other than established customers and "accredited investors". The term "accredited investor" refers generally to institutions with assets in excess of $5,000,000 or individuals with a net worth in excess of $1,000,000 or annual income exceeding $200,000, or $300,000 jointly with his or her spouse. The penny stock rules require a broker-dealer buying our securities, prior to a transaction in a penny stock not otherwise exempt from the rules, to deliver a standardized risk disclosure document in a form prepared by the SEC that provides information about penny stocks and the nature and level of risks in the penny stock market. The broker-dealer also must provide the customer with current bid and offer quotations for the penny stock, the compensation of the broker-dealer and its salesperson in the transaction and monthly account statements showing the market value of each penny stock held in the customer's account. The bid and offer quotations, and the broker-dealer and salesperson compensation information, must be given to the customer orally or in writing prior to effecting the transaction and must be given to the customer in writing before or with the customer's confirmation. In addition, the penny stock rules require that, prior to a transaction in a penny stock not otherwise exempt from these rules, the broker-dealer must make a special written determination that the penny stock is a suitable investment for the purchaser and receive the purchaser's written agreement to the transaction. These disclosure requirements may have the effect of reducing the level of trading activity in the secondary market for the stock that is subject to these penny stock rules. Consequently, these penny stock rules may affect the ability and/or willingness of broker-dealers to trade our securities, either directly or on behalf of their clients, may discourage potential investor's from purchasing our securities, or may adversely affect the ability of our stockholders to sell their shares.

***The Financial Industry Regulatory Authority, Inc. ("FINRA"), has adopted sales practice requirements that historically may have limited a stockholder's ability to buy and sell our Common Stock, which could depress the price of our Common Stock.***

In addition to the "penny stock" rules described above, FINRA has adopted rules that require that, in recommending an investment to a customer, a broker-dealer must have reasonable grounds for believing that the investment is suitable for that customer. Prior to recommending speculative low-priced securities to their non-institutional customers, broker-dealers must make reasonable efforts to obtain information about the customer's financial status, tax status, investment objectives, and other information. Under interpretations of these rules, FINRA believes that there is a high probability that speculative low-priced securities will not be suitable for at least some customers. Thus, the FINRA requirements historically has made it more difficult for broker-dealers to recommend that their customers buy our Common Stock, which could limit your ability to buy and sell our Common Stock, have an adverse effect on the market for our shares, and thereby depress our price per share of Common Stock.

***The elimination of monetary liability against our directors, officers, and employees under Nevada law and the existence of indemnification rights for our obligations to our directors, officers, and employees may result in substantial expenditures by us and may discourage lawsuits against our directors, officers, and employees.***

Our Articles of Incorporation and Bylaws contain provisions permitting us to eliminate the personal liability of our directors and officers to us and our stockholders for damages for the breach of a fiduciary duty as a director or officer to the extent provided by Nevada law. We may also have contractual indemnification obligations under any future employment agreements with our officers. The foregoing indemnification obligations could result in us incurring substantial expenditures to cover the cost of settlement or damage awards against directors and officers, which we may be unable to recoup. These provisions and the resulting costs may also discourage us from bringing a lawsuit against directors and officers for breaches of their fiduciary duties and may similarly discourage the filing of derivative litigation by our stockholders against our directors and officers even though such actions, if successful, might otherwise benefit us and our stockholders.

***Anti-takeover effects of certain provisions of Nevada state law hinder a potential takeover of us.***

Nevada has a business combination law that prohibits certain business combinations between Nevada corporations and "interested stockholders" for three years after an "interested stockholder" first becomes an "interested stockholder," unless the corporation's board of directors approves the combination in advance. For purposes of Nevada law, an "interested stockholder" is any person who is (i) the beneficial owner, directly or indirectly, of ten percent or more of the voting power of the outstanding voting shares of the corporation or (ii) an affiliate or associate of the corporation and at any time within the three previous years was the beneficial owner, directly or indirectly, of ten percent or more of the voting power of the then-outstanding shares of the corporation. The definition of the term "business combination" is sufficiently broad to cover virtually any kind of transaction that would allow a potential acquirer to use the corporation's assets to finance the acquisition or otherwise to benefit its own interests rather than the interests of the corporation and its other stockholders.

The potential effect of Nevada's business combination law is to discourage parties interested in taking control of us from doing so if these parties cannot obtain the approval of our board of directors. Both of these provisions could limit the price investors would be willing to pay in the future for shares of our Common Stock.

**ITEM 2. PROPERTIES**

Our corporate headquarters is approximately 2,800 square feet and is located at 344 S. Hauser Blvd., Suite 414, Los Angeles, California 90036. Our headquarters houses our executive and administrative operations under an operating lease that expires on July 29, 2019 for monthly rent of approximately $5,000. We believe that our facility is sufficient to meet our current needs and that suitable additional space will be available as and when needed.

**ITEM 3. LEGAL PROCEEDINGS**

On April 24, 2018, EMA Financial, LLC, a New York limited liability company ("EMA"), commenced an action against us, styled *EMA Financial, LLC, a New York limited liability company, Plaintiff, against nFUSZ, Inc., Defendant*, United States District Court, Southern District of New York, case number 1:18-cv-03634-NRB. The Complaint sets forth four causes of action and seeks relief consisting of: (1) money damages, (2) injunctive relief, (3) liquidated damages, and (4) declaratory relief. All of the claims stem from our refusal to honor EMA's exercise notice in connection with a common stock purchase warrant that we had granted to it. We believe EMA's allegations are entirely without merit.

The circumstances giving rise to the dispute are as follows: on or about December 5, 2017, we issued a warrant to EMA as part of the consideration we were required to provide in connection with a contemporaneous convertible loan EMA made to us. The loan, which was evidenced by a convertible note, was for a term of one year. Our refusal to honor the warrant exercise notice was due to our good faith belief that EMA's interpretation of the cashless exercise provision of the warrant was, *inter alia*, (1) contrary to our direct conversations and agreements made with EMA prior to, and during the preparation of the loan and warrant agreements; (2) contradictory to the plain language on the face and body of the warrant agreement drafted by EMA; (3) wholly inconsistent with industry norms, standards, and practices; (4) was contrary to the cashless exercise method actually adopted by EMA's co-lender in the same transaction; and (5) was the result of a single letter mistakenly transposed in the cashless exercise formula drafted by EMA which if adopted, would result in a gross and unintended windfall in favor of EMA and adverse to us. Moreover, as set forth in our response to EMA's allegations, EMA's interpretation of the cashless exercise provision would have resulted in it being issued more shares of our Common Stock than it would have received if it exercised the warrant for cash (instead of less), and more than the amount of shares reflected on the face of the warrant agreement itself. The loan underlying the transaction was repaid, in full, approximately three months after it was issued, on March 8, 2018, together with all accrued interest, prior to any conversion or attempted conversion of the note.

On July 20, 2018, we filed an Answer to the Complaint, along with certain Affirmative Defenses, as well as Counterclaims seeking,*inter alia*, to void the entire transaction for violation of New York's criminal usury laws and, alternatively, for reformation of the warrant conversion formula set forth in the Warrant Agreement so as to be consistent with the parties' intent and custom and practice in the industry.

As of December 31, 2018, the parties have undergone depositions and exchanged document production. Discovery was scheduled to end on January 31, 2019. Neither party has requested to extend discovery. Notwithstanding the pending action, in December 2018, EMA attempted to exercise the warrant through the Company's transfer agent utilizing the disputed cashless exercise formula. The transfer agent rejected EMA's request and notified the Company who promptly filed a motion for a preliminary injunction to enjoin EMA from making any further attempts to exercise the warrant in this manner during the pendency of the action. The Company is awaiting a decision from the Court on its preliminary injunction motion. As of the date of this Annual Report, the Court has not ruled on our motion. We intend to vigorously defend the action, as well as vigorously prosecute our counterclaims against EMA. The action is still pending.

In August 2014, a former employee and then current stockholder (the "Employee") entered into that certain Executive Employment Agreement (the "Employment Contract") with bBooth, Inc., our predecessor company. Section 3.1 of the Employment Contract provided, among other things, that Employee was employed to serve as our President and reported directly to Rory Cutaia, our Chief Executive Officer. Section 5.2 of Employment Contract provides, among other things, that Employee was entitled to receive a bonus (the "Bonus") from us if certain conditions are met. These specified conditions were never met.

On or about May 15, 2015, Employee ceased employment at the Company. More than eight months later, on or about January 20, 2016, the parties entered into a certain Stock Repurchase Agreement (the "Repurchase Agreement") pursuant to which we purchased all of Employee's shares of Common Stock for a purchase price of $144,000. The Repurchase Agreement also provided, among other things, that Employee released us from all claims, causes of action, suits, and demands (the "Release").

Approximately two years later, in April 2018, at a time when the Company's share price was on the rise, Employee notified us by email that it is Employee's position that on or about May 15, 2015: (1) Employee was terminated "without cause" pursuant to Section 6.2 of the Employment Contract; or (2) Employee terminated employment with Company "for good reason" pursuant to Section 6.3 of the Employment Contract. Employee sought approximately $300,000 in allegedly unpaid bonuses, plus 150,000 options priced at $0.50 per share, which expired prior to exercise. We responded in or about April 2018 that Employee's claims lacked factual and legal merit, including that they are barred by the Release. The lack of response from Employee at that time appeared to indicate Employee's tacit acknowledgment and ratification of our rationale underpinning our denial of Employee's claims. Approximately eight (8) months later in December 2018, Employee resurfaced, renewing his claims. We responded by reminding Employee we consider his claims to be without merit, and that, in any event, they are barred by the Release. In our view, the Release set forth in the Repurchase Agreement coupled with the existing merger or integration clause likely shields the Company from liability, even assuming, arguendo, that the claims could be supported by credible evidence.

We know of no other material pending legal proceedings to which we or any of our subsidiaries is a party or to which any of our assets or properties, or the assets or properties of any of our subsidiaries, are subject and, to the best of our knowledge, no adverse legal activity is anticipated or threatened. In addition, we do not know of any such proceedings contemplated by any governmental authorities.

We know of no material proceedings in which any of our directors, officers, or affiliates, or any registered or beneficial stockholder is a party adverse to us or any of our subsidiaries or has a material interest adverse to us or any of our subsidiaries.

**ITEM 4. MINE SAFETY DISCLOSURES**

Not applicable.

## PART II

### ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

**Market information**

Our Common Stock is quoted on the OTCQB under the symbol "FUSZD."

Set forth below are the range of high and low bid closing bid prices for the periods indicated as reported by the OTC Markets Group Inc. The market quotations reflect inter-dealer prices, without retail mark-up, mark-down or commissions and may not necessarily represent actual transactions.

| Quarter Ended | High Bid | Low Bid |
|---|---|---|
| March 31, 2019 | $ 11.10 | $ 3.92(1) |
| December 31, 2018 | $ 7.65 | $ 2.55 |
| September 30, 2018 | $ 11.40 | $ 5.55 |
| June 30, 2018 | $ 45.60 | $ 6.75 |
| March 31, 2018 | $ 31.50 | $ 1.20 |
| December 31, 2017 | $ 2.10 | $ 1.20 |
| September 30, 2017 | $ 3.45 | $ 1.05 |
| June 30, 2017 | $ 7.65 | $ 1.35 |
| March 31, 2017 | $ 2.40 | $ 1.05 |

(1) Through and including February 1, 2019.

On February 1, 2019, the closing bid price of our Common Stock as reported by the OTC Markets Group Inc. was $7.65 per share.

**Transfer Agent**

Our shares of common stock are issued in registered form. The transfer agent and registrar for our common stock is VStock Transfer, LLC, located at 18 Lafayette Place, Woodmere, New York 11598. Their telephone number is (212) 828-8436 and their fax number is (646) 536-3179.

**Holders of Common Stock**

As of February 1, 2019, there were approximately 82 holders of record of our Common Stock. As of such date, 12,213,670 shares of our common stock were issued and outstanding.

**Dividend**

We have never declared or paid dividends. We do not intend to pay cash dividends on our Common Stock for the foreseeable future, but currently intend to retain any future earnings to fund the development and growth of our business. The payment of dividends if any, on our Common Stock will rest solely within the discretion of our board of directors and will depend, among other things, upon our earnings, capital requirements, financial condition, and other relevant factors. The NRS, however, prohibits us from declaring dividends, where, after giving effect to the distribution of the dividend:

- we would not be able to pay our debts as they become due in the usual course of business; or
- our total assets would be less than the sum of our total liabilities plus the amount that would be needed to satisfy the rights of stockholders who have preferential rights superior to those receiving the distribution, unless otherwise permitted under our Articles of Incorporation.

**Securities Authorized for Issuance under Equity Compensation Plans**

The following table summarizes certain information regarding our equity compensation plans as of December 31, 2018:

| Plan category | Number of securities to be issued upon exercise of outstanding options, warrants and rights (a) | Weighted-average exercise price of outstanding options, warrants and rights (b) | Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a)) (c) |
|---|---|---|---|
| Equity compensation plans approved by security holders | - | - | - |
| Equity compensation plans not approved by security holders | 2,478,974 | $ 5.25 | 168,600 |
| **Total** | **2,478,974** | **$ 5.25** | **168,600** |

Effective October 16, 2014, our board of directors adopted and approved the 2014 Stock Option Plan (the "Plan"). The purpose of the Plan is to (a) enable us and any of our affiliates to attract and retain the types of employees, consultants, and directors who will contribute to our long-term success; (b) provide incentives that align the interests of employees, consultants and directors with those of our stockholders; and (c) promote the success of our business.

The Plan provides for the grant of incentive stock options to purchase shares of our Common Stock to our directors, officers, employees, and consultants. The Plan is administered by our board of directors, except that it may, in its discretion, delegate such responsibility to a committee comprised of at least two directors. A maximum of 800,000 shares are reserved and set aside for issuance under the Plan. Each option, upon its exercise, entitles the optionee to acquire one share of our Common Stock, upon payment of the applicable exercise price, which is determined by the board at the time of grant. Stock options may be granted under the Plan for an exercise period of up to ten years from the grant date of the option or such lesser periods as may be determined by the board, subject to earlier termination in accordance with the terms of the Plan.

Vesting terms are determined by the board of directors at the time of grant; provided, that, if no vesting schedule is specified at the time of grant, 25% of the options granted will vest on each of the first, second, third, and fourth anniversaries of the grant date. Options that have vested will terminate, to the extent not previously exercised, upon the occurrence of the first of the following events: (i) the expiration of the options; (ii) the date of an optionee's termination of employment or contractual relationship with us for cause (as determined in the sole discretion of the plan administrator; (iii) the expiration of three months from the date of an optionee's termination of employment or contractual relationship with us for any reason whatsoever other than cause, death, or disability (as defined in the Plan); or (iv) the expiration of one year from termination of an optionee's employment or contractual relationship by reason of death or disability.

**Recent Sales of Unregistered Securities**

During our fiscal year ended December 31, 2018, all sales of equity securities that were not registered under the Securities Act of 1933, as amended, were previously reported in a Quarterly Report on Form 10-Q or in a Current Report on Form 8-K.

**Purchases of Equity Securities by the Issuer and Affiliated Purchasers**

We did not, nor did any affiliated purchaser, make any repurchases of our equity securities during the fourth quarter of fiscal year 2018.

## ITEM 6. SELECTED FINANCIAL DATA

Not applicable.

## ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis of our results of operations and financial condition for the fiscal years ended December 31, 2018 and 2017, should be read in conjunction with our consolidated financial statements and the related notes and the other financial information that are included elsewhere in this Annual Report. This discussion includes forward-looking statements based upon current expectations that involve risks and uncertainties, such as our plans, objectives, expectations, and intentions. Forward-looking statements are statements not based on historical information and which relate to future operations, strategies, financial results, or other developments. Forward-looking statements are based upon estimates, forecasts, and assumptions that are inherently subject to significant business, economic, and competitive uncertainties and contingencies, many of which are beyond our control and many of which, with respect to future business decisions, are subject to change. These uncertainties and contingencies can affect actual results and could cause actual results to differ materially from those expressed in any forward-looking statements. Actual results and the timing of events could differ materially from those anticipated in these forward-looking statements as a result of a number of factors, including those set forth under the Risk Factors, Special Note Regarding Forward-Looking Statements, and Business sections in this Annual Report. We use words such as "anticipate," "estimate," "plan," "project," "continuing," "ongoing," "expect," "believe," "intend," "may," "will," "should," "could," and similar expressions to identify forward-looking statements.

**Overview**

CMG was organized as a limited liability company under the laws of the State of Nevada on December 12, 2012. On May 19, 2014, bBooth, Inc. was incorporated under the laws of the State of Nevada. On May 19, 2014, CMG merged into bBooth, Inc. and, thereafter, bBooth, Inc. changed its name to bBooth (USA), Inc., effective October 16, 2014. The operations of CMG and bBooth (USA), Inc., became known as, and are referred to in this Annual Report as, "bBoothUSA."

On October 16, 2014, bBoothUSA was acquired by GSD, pursuant to the Share Exchange Agreement entered into with GSD. GSD was incorporated in the State of Nevada on November 27, 2012. The acquisition was accounted for as a reverse merger transaction. In connection with the closing of the transactions contemplated by the Share Exchange Agreement, GSD's management was replaced by bBoothUSA's management, and GSD changed its name to bBooth, Inc.

Effective April 21, 2017, we changed our corporate name from bBooth, Inc. to nFüsz, Inc. The name change was effected through a parent/subsidiary short-form merger of nFüsz, Inc., our wholly-owned Nevada subsidiary, formed solely for the purpose of the name change, with and into us. We were the surviving entity. To effectuate the name-change merger, we filed Articles of Merger and a Certificate of Correction (relative to the effective date of the name-change merger) with the Secretary of State of the State of Nevada on April 4, 2017 and April 17, 2017, respectively. The name-change merger became effective on April 21, 2017. Our board of directors approved the name-change merger, which resulted in the name change on that date. In accordance with Section 92A.180 of the NRS, stockholder approval of the name-change merger was not required.

Effective February 1, 2019, we changed our corporate name from nFüsz, Inc. to Verb Technology Company, Inc. The name change was effected through a parent/subsidiary short-form merger of Verb Technology Company, Inc., our wholly-owned Nevada subsidiary, formed solely for the purpose of the name change, with and into us. We were the surviving entity. To effectuate the name-change merger, we filed Articles of Merger with the Secretary of State of the State of Nevada on January 31, 2019. The name-change merger became effective on February 1, 2019. Our board of directors approved the name-change merger, which resulted in the name change on that date. In accordance with Section 92A.180 of the NRS, stockholder approval of the name-merger was not required.

On February 1, 2019, we implemented a 1-for-15 Reverse Stock Split of our Common Stock. The Reverse Stock Split became effective upon commencement of trading of our Common Stock on February 4, 2019. As a result of the Reverse Stock Split, every fifteen (15) shares of our pre-Reverse Stock Split Common Stock were combined and reclassified into one share of our Common Stock. The number of shares of Common Stock subject to outstanding options, warrants, and convertible securities were also reduced by a factor of fifteen (15) as of February 1, 2019. All historical share and per share amounts reflected throughout our consolidated financial statements and other financial information in this Annual Report have been adjusted to reflect the Reverse Stock Split. The par value per share of our Common Stock was not affected by the Reverse Stock Split.

**Results of Operations**

***Fiscal Year Ended December 31, 2018 compared to the Fiscal Year Ended December 31, 2017***

The following is a comparison of the results of our operations for the year ended December 31, 2018 and 2017.

| | *For the Year Ended* | | |
|---|---|---|---|
| | ***December 31, 2018*** | ***December 31, 2017*** | ***Change*** |
| Net sales | $ 32,000 | $ 6,000 | $ 26,000 |
| Cost of revenue | 52,000 | 8,000 | 44,000 |
| Research and development expense | 980,000 | 375,000 | 605,000 |
| General and administrative expense | 6,792,000 | 4,328,000 | 2,464,000 |
| Loss from operations' | 7,792,000 | 4,705,000 | 3,087,000 |
| Other income | - | 28,000 | (28,000) |
| Other expense, net | (4,334,000) | (2,587,000) | (1,747,000) |
| Loss before income taxes | (12,126,000) | (7,264,000) | (4,862,000) |
| Income tax provision | 1,000 | 2,000 | (1,000) |
| Net loss | **$ (12,127,000)** | **$ (7,266,000)** | **$ (4,861,000)** |

***Revenues***

Subscription revenues for the year ended December 31, 2018 were $32,000, compared to $6,000 for the year ended December 31, 2017. The increase in subscription revenues in fiscal 2018 was attributable to the Company's SaaS platform that was launched during the fourth quarter of fiscal 2017.

***Operating Expenses***

Cost of revenue expenses were $52,000 in fiscal 2018, as compared to $8,000 in fiscal 2017. Cost of revenues primarily consisted of web hosting costs that support the SaaS platform. The $44,000 increase from fiscal 2017 is attributed to the Company's SaaS platform that was launched during the fourth quarter of fiscal 2017.

Research and development expenses were $980,000 in fiscal 2018, as compared to $375,000 in fiscal 2017. Research and development expenses primarily consisted of fees paid to vendors contracted to perform research projects and develop technology. In fiscal 2018 and fiscal 2017, our research and development initiatives supported our cloud-based products, or SaaS platform. Our research and development expenses increased by approximately $605,000 in fiscal 2018, as compared to fiscal 2017, due to additional product development and testing.

General and administrative expenses for fiscal 2018 were $6,792,000 an increase of $2,464,000 as compared to fiscal 2017. The increase in general and administrative expenses was primarily due to an increase in stock-based compensation expense of $881,000, an increase in professional service fees of $550,000 related to the proposed merger with Sound Concepts, proposed underwritten public offering, and proposed up-listing to NASDAQ, an increase in labor related costs of $325,000 related to growth in our operations, an increase in marketing costs of $268,000 to drive awareness, and an increase in travel costs of $187,000 to support awareness and additional business opportunities.

Other expense, net, for fiscal 2018 equaled $4,334,000, which represented interest expense for amortization of debt discount of $1,468,000, the change in the fair value of derivative liability of $1,167,000, financing costs of $798,000 driven by derivative liabilities associated with convertible debt, a $534,000 net loss from debt extinguishment, and interest expense of $362,000 on outstanding notes payable. Other expense, net, for fiscal 2017 equaled $2,587,000, which represented $977,000 on loss from debt extinguishment, $643,000 of financing costs driven by derivative liabilities associated with convertible debt, $555,000 of interest expense on outstanding notes payable, and $418,000 of interest expense for amortization of debt discount. The amount of other expense, net, was higher in fiscal 2018 due to the change in the fair value of derivative liability $1,173,000, higher amortization of debt discount of $1,050,000, and higher financing costs of $155,000, offset by lower debt extinguishment of $443,000, and lower interest expense of $193,000 due to less debt.

***Other Income***

We earned no other income during fiscal 2018, compared to $28,000 in other income in during fiscal 2017. The decrease in other income in fiscal 2018 is due to the transition from the rental of interactive booths as the primary business to the SaaS business model.

***Modified EBITDA***

In addition to our GAAP results, we present Modified EBITDA as a supplemental measure of our performance. However, Modified EBITDA is not a recognized measurement under GAAP and should not be considered as an alternative to net income, income from operations or any other performance measure derived in accordance with GAAP or as an alternative to cash flow from operating activities as a measure of liquidity. We define Modified EBITDA as net income (loss), plus interest expense, depreciation and amortization, stock-based compensation, financing costs and changes in fair value of derivative liability.

Management considers our core operating performance to be that which our managers can affect in any particular period through their management of the resources that affect our underlying revenue and profit generating operations that period. Non-GAAP adjustments to our results prepared in accordance with GAAP are itemized below. You are encouraged to evaluate these adjustments and the reasons we consider them appropriate for supplemental analysis. In evaluating Modified EBITDA, you should be aware that in the future we may incur expenses that are the same as or similar to some of the adjustments in this presentation. Our presentation of Modified EBITDA should not be construed as an inference that our future results will be unaffected by unusual or non-recurring items.

| | For the Year Ended | |
|---|---|---|
| | ***December 31, 2018*** | ***December 31, 2017*** |
| Net loss | $ (12,127,000) | $ (7,266,000) |
| **Adjustments:** | | |
| Other (income) / expense | 5,000 | (28,000) |
| Stock compensation expense | 3,415,000 | 2,534,000 |
| Financing costs | 798,000 | 643,000 |
| Amortization of debt discount | 1,468,000 | 418,000 |
| Change in fair value of derivative liability | 1,167,000 | (6,000) |
| Debt extinguishment, net | 534,000 | 977,000 |
| Interest expense | 362,000 | 555,000 |
| Depreciation | 20,000 | 22,000 |
| Income tax provision | 1,000 | 2,000 |
| Total EBITDA adjustments | 7,770,000 | 5,117,000 |
| **Modified EBITDA** | **$ (4,357,000)** | **$ (2,149,000)** |

The approximate $2.2 million decrease in Modified EBITDA for the year ended December 31, 2018 compared to the same period in 2017, resulted from an increase in labor related costs, marketing costs, professional service fees, and travel associated with the growth of the Company, as well as fees associated with the proposed merger with Sound Concepts, the proposed underwritten public offering, and the filing of an up-listing application with NASDAQ.

We present Modified EBITDA because we believe it assists investors and analysts in comparing our performance across reporting periods on a consistent basis by excluding items that we do not believe are indicative of our core operating performance. In addition, we use Modified EBITDA in developing our internal budgets, forecasts and strategic plan; in analyzing the effectiveness of our business strategies in evaluating potential acquisitions; and in making compensation decisions and in communications with our board of directors concerning our financial performance. Modified EBITDA has limitations as an analytical tool, which includes, among others, the following:

- Modified EBITDA does not reflect our cash expenditures, or future requirements, for capital expenditures or contractual commitments;
- Modified EBITDA does not reflect changes in, or cash requirements for, our working capital needs;
- Modified EBITDA does not reflect future interest expense, or the cash requirements necessary to service interest or principal payments, on our debts; and
- Although depreciation and amortization are non-cash charges, the assets being depreciated and amortized will often have to be replaced in the future, and Modified EBITDA does not reflect any cash requirements for such replacements.

**Liquidity and Capital Resources**

***Going Concern***

We have incurred operating losses and negative cash flows from operations since inception. As of December 31, 2018, we had a stockholders' deficit of $5,055,000 and we incurred a net loss of $12,127,000 during the year ended December 31, 2018. We also utilized cash in operations of $4,157,000 during the year ended December 31, 2018. As a result, our continuation as a going concern is dependent on our ability to obtain additional financing until we can generate sufficient cash flows from operations to meet our obligations. We intend to continue to seek additional debt or equity financing to continue our operations.

Our consolidated financial statements have been prepared on a going concern basis, which implies we may not continue to meet our obligations and continue our operations for the next fiscal year. The continuation of our Company as a going concern is dependent upon our ability to obtain necessary debt or equity financing to continue operations until our Company begins generating positive cash flow.

There is no assurance that we will ever be profitable or that debt or equity financing will be available to us in the amounts, on terms, and at times deemed acceptable to us, if at all. The issuance of additional equity securities by us would result in a significant dilution in the equity interests of our current stockholders. Obtaining commercial loans, assuming those loans would be available, would increase our liabilities and future cash commitments. If were are unable to obtain financing in the amounts and on terms deemed acceptable to us, we may be unable to continue our business, as planned, and as a result may be required to scale back or cease operations for our business, the results of which would be that our stockholders would lose some or all of their investment. The consolidated financial statements do not include any adjustments to reflect the possible future effects on the recoverability and classification of assets or the amounts and classifications of liabilities that may result should we be unable to continue as a going concern.

***Liquidity and Capital Resources Overview***

As of December 31, 2018, we had cash of $634,000. We estimate our operating expenses for the next three months may continue to exceed any revenues we generate, and we may need to raise capital through either debt or equity offerings to continue operations. We are in the early stages of our business. We are required to fund growth from financing activities, and we intend to rely on a combination of equity and debt financings. Due to market conditions and the early stage of our operations, there is considerable risk that we will not be able to raise such financings at all, or on terms that are not overly dilutive to our existing stockholders. We can offer no assurance that we will be able to raise such funds. If we are unable to raise the funds we require for all of our planned operations, we may be forced to reallocate funds from other planned uses and may suffer a significant negative effect on our business plan and operations, including our ability to develop new products and continue our current operations. As a result, our business may suffer, and we may be forced to reduce or discontinue operations.

The following is a summary of our cash flows from operating, investing, and financing activities for the years ended December 31, 2018 and 2017:

| | For the Year Ended | |
|---|---|---|
| | **December 31, 2018** | **December 31, 2017** |
| Cash used in operating activities | $ (4,157,000) | $ (1,677,000) |
| Cash used in investing activities | - | - |
| Cash provided by financing activities | 4,780,000 | 1,671,000 |
| (Decrease) / increase in cash | $ 623,000 | $ (6,000) |

***Cash Flows – Operating***

For the year ended December 31, 2018, our cash flows used in operating activities amounted to $4,157,000, compared to cash used during the year ended December 31, 2017 of $1,677,000. The change is due to an increase in business activity, which resulted in an additional consulting expenses, salary, and various operating expenses in fiscal 2018 compared to fiscal 2017.

***Cash Flows – Financing***

Our cash provided by financing activities for the year ended December 31, 2018 amounted to $4,780,000, which represented $2,979,000 of proceeds received from the issuances of shares of our Common Stock, $1,772,000 of proceeds from the issuance of convertible debt, $1,000,000 of proceeds from the issuance of shares of our Common Stock from the exercise of a put option, $34,000 of proceeds from the exercise of options, and $22,000 of proceeds from the exercise of warrants, offset by $845,000 of convertible debt payments, $162,000 of deferred offering costs, and the repurchase of shares of our Common Stock equal to $20,000. Our cash provided by financing activities for the year ended December 31, 2017 amounted to $1,671,000, which represented $813,000 of proceeds from the issuance of convertible notes payable, $796,000 of proceeds received from the issuances of common stock, $555,000 of proceeds received from the issuance of Series A preferred stock, $50,000 in proceeds from the issuance of shares of our Common Stock from the exercise of a put option, offset by the redemption of Series A preferred stock of $543,000. All other shares of Series A preferred stock have been converted and we filed a Certificate of Withdrawal with the State of Nevada on August 10, 2018 to formally withdrawal the Series A preferred stock.

**Notes Payable – Related Parties**

The Company has the following related parties notes payable as of December 31, 2018:

| Note | Issuance Date | Maturity Date | Interest Rate | Original Borrowing | Balance at December 31, 2018 |
|---|---|---|---|---|---|
| Note 1 (A) | December 1, 2015 | February 8, 2021 | 12.0% | $ 1,249,000 | $ 825,000 |
| Note 2 (B) | December 1, 2015 | April 1, 2017 | 12.0% | 112,000 | 112,000 |
| Note 3 (C) | April 4, 2016 | June 4, 2021 | 12.0% | 343,000 | 240,000 |
| Total notes payable – related parties, net | | | | | 1,177,000 |
| Non-current | | | | | (1,065,000) |
| Current | | | | | $ 112,000 |

(A) On December 1, 2015, the Company issued a convertible note payable to Mr. Rory J. Cutaia, the Company's majority stockholder and Chief Executive Officer, to consolidate all loans and advances made by Mr. Cutaia to the Company as of that date. The note bears interest rate of 12% per annum, secured by the Company's assets, and had an original maturity date of April 1, 2017. Per the terms of the note agreement, at Mr. Cutaia's discretion, he may convert up to 30%, or $375,000, of outstanding principal, plus accrued interest thereon, into shares of Common Stock at a conversion rate of $1.05 per share.

On May 4, 2017, the Company entered into an extension agreement with Mr. Cutaia to extend the maturity date of the note from April 1, 2017 to August 1, 2018. In consideration, the Company issued Mr. Cutaia a three-year warrant to purchase up to 117,013 shares of Common Stock at a price of $5.33 per share with a fair value of $517,000. All other terms of the note remain unchanged.

On August 8, 2018, we entered into an extension agreement with Mr. Cutaia to extend the maturity date of the note to February 8, 2021. All other terms of the note remain unchanged. In connection with the extension, we granted to Mr. Cutaia a three-year warrant to purchase up to 163,113 shares of Common Stock at a price of $7.35 per share with a fair value of $1,075,000.

On September 30, 2018, Mr. Cutaia converted the principal balance that was convertible, or $375,000 into 356,824 shares of restricted Common Stock at $1.05 per share.

As of December 31, 2018, outstanding balance of the note amounted to $825,000.

(B) On December 1, 2015, the Company issued a note payable to a former member of the Company's board of directors, in the amount of $112,000, representing unpaid consulting fees as of November 30, 2015. The note is unsecured, bears interest at a rate of 12% per annum, and matured in April 2017.

As of December 31, 2018, and the date of this Annual Report, the note is past due. The Company is currently in negotiations with the note holder to settle the note payable.

(C) On April 4, 2016, the Company issued a convertible note to Mr. Cutaia, in the amount of $343,000, to consolidate all advances made by Mr. Cutaia to the Company from December 2015 through March 2016. The note bears interest rate of 12% per annum, is secured by the Company's assets, and had an original maturity date of August 4, 2017. Pursuant to the terms of the note, a total of 30% of the note principal, or $103,000, can be converted to shares of Common Stock at a conversion price $1.05 per share.

On August 4, 2017, the Company entered into an extension agreement with Mr. Cutaia to extend the maturity date of the note from August 4, 2017 to December 4, 2018. In consideration for extending the note's maturity date, the Company issued Mr. Cutaia warrants to purchase up to 88,610 shares of Common Stock at a price of $2.25 per share with a fair value of $172,000. All other terms of the note remain unchanged. As of December 31, 2017, the outstanding balance of the note amounted to $343,000.

On September 30, 2018, pursuant of the terms of the note, Mr. Cutaia converted 30% of the principal balance, $103,000, into 98,093 restricted shares of the Company's Common Stock at $1.05 per share.

On December 4, 2018, the Company entered into an extension agreement with Mr. Cutaia to extend the maturity date of the note to June 4, 2021. All other terms of the note remain unchanged. In connection with the extension, the Company granted to Mr. Cutaia a three-year warrant to purchase up to 23,562 shares of Common Stock at a price of $5.10 per share with a fair value of $111,000. As of December 31, 2018, outstanding balance of the note amounted to $240,000.

During the year ended December 31, 2018 the Company recorded total interest expense of $211,000 pursuant to the terms of the notes and paid $269,000.

**Convertible Notes Payable**

The Company has the following outstanding convertible notes payable at December 31, 2018:

| Note | Note Date | Maturity Date | Interest Rate | Original Borrowing | Balance at December 31, 2018 |
|---|---|---|---|---|---|
| Note payable (A) | October 19, 2018 | April 19, 2019 | 10% | $ 1,500,000 | 1,500,000 |
| Note payable (B) | October 30, 2018 | April 29, 2019 | 5% | $ 400,000 | 400,000 |
| Total notes payable | | | | | 1,900,000 |
| Debt discount | | | | | (1,082,000) |
| Total notes payable, net of debt discount | | | | | $ 818,000 |

(A) On October 19, 2018, the Company issued an unsecured convertible note to an otherwise unaffiliated third-party entity in the aggregate principal amount of $1,500,000 in exchange for net proceeds of $1,241,500, after an original issue discount of $150,000 and legal and financing expenses of $109,000. In addition, the Company issued 96,667 shares of its Common Stock. The note is convertible into shares of the Company's Common Stock only on or after the occurrence of an uncured "Event of Default." Primarily, the Company will be in default if it does not repay the principal amount of the note, as required. The events of default are customary for the type of transaction represented by the related securities purchase agreement and the note. The conversion price in effect on any date on which some or all of the principal of the Note is to be converted is equal to 70% of the lowest VWAP during the ten trading days immediately preceding the date on which the third party provided its notice of conversion. Upon an Event of Default, the Company will owe the third party an amount equivalent to 110% of the then-outstanding principal amount of the note in addition to all other amounts, costs, expenses, and liquidated damages that might also be due in respect thereof. The Company has agreed that, on or after the occurrence of an Event of Default, it will reserve and keep available that number of shares of its Common Stock that is at least equal to 200% of the number of such shares that potentially would be issuable pursuant to the terms of the securities purchase agreement and the note (assuming conversion in full of the note and on any date of determination).

(B) On October 30, 2018, we issued two unsecured convertible notes to one current investor and one otherwise unaffiliated third-party in the aggregate principal amount of $400,000 in exchange for net proceeds of $400,000. The notes bear interest at a rate of 5% per annum and will mature on April 29, 2019. Upon the Company's consummation of the contemplated underwritten public offering of the Company's Common Stock, all, and not less than all, of (i) the principal and (ii) the accrued interest hereunder shall be converted into shares of the Company's common stock that have been registered. The per-share conversion price will be equal to seventy-five percent (75%) of the offering price of the Common Stock in the contemplated underwritten public offering.

During the year ended December 31, 2018, the Company settled outstanding debt of $845,000 through the payment of cash. In addition, the Company issued 408,867 shares of Common Stock with a fair value of $2,151,000 in settlement of outstanding convertible notes of $901,000 and accrued interest of $161,000 (or $1,062,000 in the aggregate).

**Off Balance Sheet Arrangements**

We have no off-balance sheet arrangements.

**Contractual Obligations**

We are a smaller reporting company as defined by Rule 12b-2 of the Exchange Act, and are not required to provide the information under this Item.

**Critical Accounting Policies**

Our financial statements have been prepared in accordance with GAAP, which require that we make certain assumptions and estimates that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of net revenue and expenses during each reporting period.

***Use of Estimates***

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reported periods. Significant estimates include valuation of derivative liability, valuation of debt and equity instruments, share-based compensation arrangements and long-lived assets. Amounts could materially change in the future.

***Derivative Financial Instruments***

The Company evaluates its financial instruments to determine if such instruments are derivatives or contain features that qualify as embedded derivatives. For derivative financial instruments that are accounted for as liabilities, the derivative instrument is initially recorded at its fair value and is then re-valued at each reporting date, with changes in the fair value reported in the consolidated statements of operations. The classification of derivative instruments, including whether such instruments should be recorded as liabilities or as equity, is evaluated at the end of each reporting period. Derivative instrument liabilities are classified in the balance sheet as current or non-current based on whether or not net-cash settlement of the derivative instrument could be required within 12 months of the balance sheet date.

The Company uses Level 2 inputs for its valuation methodology for the derivative liabilities as their fair values were determined by using a probability weighted average Black-Scholes-Merton pricing model based on various assumptions. The Company's derivative liabilities are adjusted to reflect fair value at each period end, with any increase or decrease in the fair value being recorded in results of operations as adjustments to fair value of derivatives.

***Share Based Payment***

The Company issues options exercisable for shares of our Common Stock, warrants exercisable for shares of our Common Stock, shares of our Common Stock, and equity interests as share-based compensation to employees and non-employees.

The Company accounts for its share-based compensation to employees in accordance FASB ASC 718 "Compensation – Stock Compensation." Stock-based compensation cost is measured at the grant date, based on the estimated fair value of the award, and is recognized as expense over the requisite service period.

The Company accounts for share-based compensation issued to non-employees and consultants in accordance with the provisions of FASB ASC 505-50*"*Equity - Based Payments to Non-Employees*."* Measurement of share-based payment transactions with non-employees is based on the fair value of whichever is more reliably measurable: (a) the goods or services received; or (b) the equity instruments issued. The final fair value of the share-based payment transaction is determined at the performance completion date. For interim periods, the fair value is estimated, and the percentage of completion is applied to that estimate to determine the cumulative expense recorded.

The Company values stock compensation based on the market price on the measurement date. As described above, for employees this is the date of grant, and for non-employees, this is the date of performance completion.

The Company values stock options using the Black-Scholes option pricing model. Assumptions used in the Black-Scholes model to value options issued during the years ended December 31, 2018 and 2017 are as follows:

| | Year Ended December 31, 2018 | Year Ended December 31, 2017 |
|---|---|---|
| Expected life in years | 5.0 | 2.5 to 5.0 |
| Stock price volatility | 184.45% -190.22% | 84.36% - 173.92% |
| Risk free interest rate | 2.25% - 3.00% | 1.22% - 2.23% |
| Expected dividends | 0% | 0% |
| Forfeiture rate | 18% | 21% |

The risk-free interest rate was based on rates established by the Federal Reserve Bank. The Company uses the historical volatility of its Common Stock to estimate the future volatility for its Common Stock. The expected dividend yield was based on the fact that the Company has not customarily paid dividends in the past and does not expect to pay dividends in the future.

***Concentrations***

During the year ended December 31, 2018, the Company had a single vendor that accounted for 5% of all purchases, and 20.7% of all purchases in the same period in the prior year.

**Recently Issued Accounting Pronouncements**

For a summary of our recent accounting policies, please refer to Note 2,*Summary of Significant Accounting Policies,* of the audited consolidated financial statements for the year ended December 31, 2018.

**ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

Not applicable.

**ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

**To the Stockholders and the Board of Directors**
**Verb Technology Company, Inc. (formerly known as nFüsz, Inc.)**
**Los Angeles, California**

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Verb Technology Company, Inc. (formerly known as nFüsz, Inc. (the "Company") as of December 31, 2018 and 2017, the related consolidated statements of operations, changes in stockholders' deficit, and cash flows for the years then ended, and the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2018 and 2017, and the results of their operations and their cash flows for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

Going Concern

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 1, the Company has incurred recurring operating losses and used cash in operations since inception, and has a stockholders' deficit at December 31, 2018. These matters raise substantial doubt about the Company's ability to continue as a going concern. Management's plans in regard to these matters are also described in Note 1 to the financial statements. These consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

Basis for Opinion

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's consolidated financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

We have served as the Company's auditor since 2017.

*/s/ Weinberg & Company, P.A.*

Weinberg & Company, P.A
Los Angeles, CA
February 7, 2019

**VERB TECHNOLOGY COMPANY, INC.**
**(formerly known as nFüsz, Inc.)**
**CONSOLIDATED BALANCE SHEETS**

| | *December 31, 2018* | *December 31, 2017* |
|---|---|---|
| **ASSETS** | | |
| **Current assets:** | | |
| Cash | $ 634,000 | $ 11,000 |
| Prepaid expenses | 83,000 | 41,000 |
| Accounts receivable | 1,000 | - |
| Total current assets | 718,000 | 52,000 |
| Deferred offering costs | 162,000 | - |
| Property and equipment, net | 11,000 | 31,000 |
| Other assets | 7,000 | 9,000 |
| **Total assets** | **$ 898,000** | **$ 92,000** |
| **LIABILITIES AND STOCKHOLDERS' DEFICIT** | | |
| **Current liabilities:** | | |
| Accounts payable and accrued expenses | $ 1,148,000 | $ 665,000 |
| Accrued officers' salary | 188,000 | 607,000 |
| Accrued interest (including $41,000 and $99,000 payable to related parties) | 46,000 | 248,000 |
| Note payable | - | 125,000 |
| Notes payable - related parties | 112,000 | 1,965,000 |
| Convertible notes payable, net of discount of $1,082,000 and $675,000, respectively | 818,000 | 1,020,000 |
| Derivative liability | 2,576,000 | 1,251,000 |
| Total current liabilities | 4,888,000 | 5,881,000 |
| **Long-term liabilities:** | | |
| Notes payable - related parties | 1,065,000 | - |
| Total long-term liabilities | 1,065,000 | - |
| **Total liabilities** | **5,953,000** | **5,881,000** |
| **Stockholders' deficit** | | |
| Preferred stock, $0.0001 par value, 15,000,000 shares authorized, none issued or outstanding | - | - |
| Common stock, $0.0001 par value, 200,000,000 shares authorized, 12,055,491 and 7,941,234 shares issued and outstanding as of December 31, 2018 and 2017 | 1,000 | 1,000 |
| Additional paid-in capital | 35,611,000 | 22,750,000 |
| Accumulated deficit | (40,667,000) | (28,540,000) |
| **Total stockholders' deficit** | **(5,055,000)** | **(5,789,000)** |
| **Total liabilities and stockholders' deficit** | **$ 898,000** | **$ 92,000** |

The accompanying notes are an integral part of these consolidated financial statements

**VERB TECHNOLOGY COMPANY, INC.**
**(formerly known as nFüsz, Inc.)**
**CONSOLIDATED STATEMENTS OF OPERATIONS**

| | For the Year Ended | |
|---|---|---|
| | ***December 31, 2018*** | ***December 31, 2017*** |
| Net Sales | $ 32,000 | $ 6,000 |
| **Operating Expenses:** | | |
| Cost of revenue | 52,000 | 8,000 |
| Research and development | 980,000 | 375,000 |
| General and administrative | 6,792,000 | 4,328,000 |
| Total operating expenses | (7,824,000) | (4,711,000) |
| Loss from operations | (7,792,000) | (4,705,000) |
| **Other income (expense)** | | |
| Other Income / (Expense) | (5,000) | 28,000 |
| Financing costs | (798,000) | (643,000) |
| Interest expense - amortization of debt discount | (1,468,000) | (418,000) |
| Change in fair value of derivative liability | (1,167,000) | 6,000 |
| Debt extinguishment, net | (534,000) | (977,000) |
| Interest expense (including $211,000 and $236,000 to related parties) | (362,000) | (555,000) |
| Total other expense | (4,334,000) | (2,559,000) |
| Loss before income tax provision | **$ (12,126,000)** | **$ (7,264,000)** |
| Income tax provision | 1,000 | 2,000 |
| **Net Loss** | **$ (12,127,000)** | **$ (7,266,000)** |
| **Loss per share - basic and diluted** | $ (1.23) | $ (1.03) |
| **Weighted average number of common shares outstanding - basic and diluted** | 9,870,890 | 7,076,540 |

The accompanying notes are an integral part of these consolidated financial statements

**VERB TECHNOLOGY COMPANY, INC.**
**(formerly known as nFüsz, Inc.)**
**CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' DEFICIT**
**For the Years Ended December 31, 2018 and 2017**

| | Common Stock | | Additional Paid-in | Common Stock | Accumulated | |
|---|---|---|---|---|---|---|
| | Shares | Amount | Capital | Issuable | Deficit | Total |
| **Balance at December 31, 2016** | **6,310,771** | **$ 1,000** | **$ 17,825,000** | **$ (20,000)** | **$ (21,274,000)** | **(3,468,000)** |
| Fair value vested options and warrants | **-** | - | 445,000 | - | - | 445,000 |
| Proceeds from sale of common stock | **745,476** | **-** | 776,000 | 20,000 | - | 796,000 |
| Fair value of common shares issued for services | **552,029** | **-** | 2,088,000 | - | - | 2,088,000 |
| Fair value of common stock issued upon conversion Preferred Series A | **190,800** | **-** | 303,000 | - | | 303,000 |
| Fair value of common stock issued upon conversion of debt | **68,413** | **-** | 182,000 | - | | 182,000 |
| Common shares issued upon exercise of put option | **43,745** | **-** | 50,000 | - | | 50,000 |
| Fair value of shares of common stock issued to settle accounts payable | **26,667** | **-** | 56,000 | - | - | 56,000 |
| Fair value of common shares, warrants and beneficial conversion feature of issued notes | **3,333** | **-** | 154,000 | - | | 154,000 |
| Fair value of warrants issued to extinguish debt and accounts payable | - | - | 871,000 | - | | 871,000 |
| Net loss | - | - | - | - | (7,266,000) | (7,266,000) |
| **Balance at December 31, 2017** | **7,941,234** | **1,000** | **22,750,000** | **-** | **(28,540,000)** | **(5,789,000)** |
| Common shares issued upon exercise of warrants | **1,074,921** | **-** | 22,000 | - | - | 22,000 |
| Common shares issued upon exercise of options | **32,508** | **-** | 34,000 | - | - | 34,000 |
| Proceeds from sale of common stock | **1,163,938** | **-** | 2,979,000 | - | - | 2,979,000 |
| Fair Value of warrants issued for debt extension | **-** | **-** | 1,188,000 | | | 1,188,000 |
| Fair value of common shares issued for services | **319,345** | **-** | 1,545,000 | - | - | 1,545,000 |
| Fair value of common stock issued upon conversion of debt | **1,243,189** | **-** | 3,066,000 | - | - | 3,066,000 |
| Fair value of common stock upon issuance of convertible debt | **96,667** | **-** | 595,000 | | | 595,000 |
| Fair value of common stock issued upon conversion of accrued officer's salary | **27,148** | **-** | 582,000 | - | - | 582,000 |
| Common shares issued upon exercise of put option | **203,207** | **-** | 1,000,000 | - | - | 1,000,000 |
| Fair value of vested stock options | **-** | **-** | 1,870,000 | - | - | 1,870,000 |
| Stock repurchase | **(46,666)** | **-** | (20,000) | - | - | (20,000) |
| Net loss | - | - | - | - | (12,127,000) | (12,127,000) |
| **Balance at December 31, 2018** | **12,055,491** | **$ 1,000** | **$ 35,611,000** | **$ -** | **$ (40,667,000)** | **$ (5,055,000)** |

The accompanying notes are an integral part of these consolidated financial statements

**VERB TECHNOLOGY COMPANY, INC.**
**(formerly known as nFüsz, Inc.)**
**CONSOLIDATED STATEMENTS OF CASH FLOWS**

| | For the Year Ended | |
|---|---|---|
| | ***December 31, 2018*** | ***December 31, 2017*** |
| **Operating Activities:** | | |
| Net loss | $ (12,127,000) | $ (7,266,000) |
| **Adjustments to reconcile net loss to net cash used in operating activities:** | | |
| Fair value of common shares issued for services and vested stock options | 3,415,000 | 2,534,000 |
| Financing costs | 798,000 | 643,000 |
| Amortization of debt discount | 1,468,000 | 418,000 |
| Change in fair value of derivative liability | 1,167,000 | (6,000) |
| Debt extinguishment costs, net | 534,000 | 977,000 |
| Depreciation and amortization | 20,000 | 22,000 |
| Conversion of Series A | - | 217,000 |
| **Effect of changes in assets and liabilities:** | | |
| Accounts payable, accrued expenses, and accrued interest | 609,000 | 799,000 |
| Other assets | 2,000 | 7,000 |
| Deferred revenue | - | - |
| Accounts receivable | (1,000) | 8,000 |
| Prepaid expenses | (42,000) | (30,000) |
| Net cash used in operating activities | (4,157,000) | (1,677,000) |
| | | |
| **Financing Activities:** | | |
| Proceeds from sale of common stock | 2,979,000 | 796,000 |
| Proceeds from convertible note payable | 1,772,000 | 813,000 |
| Proceeds from exercise of put option | 1,000,000 | 50,000 |
| Proceeds from option exercise | 34,000 | - |
| Proceeds from warrant exercise | 22,000 | - |
| Proceeds from series A preferred stock | - | 555,000 |
| Payment of convertible notes payable | (845,000) | - |
| Deferred offering costs | (162,000) | - |
| Repurchase common stock | (20,000) | - |
| Redemption of series A preferred stock | - | (543,000) |
| Net cash provided by financing activities | 4,780,000 | 1,671,000 |
| | | |
| Net change in cash | 623,000 | (6,000) |
| | | |
| Cash - beginning of period | 11,000 | 17,000 |
| | | |
| Cash - end of period | $ 634,000 | $ 11,000 |
| | | |
| **Supplemental disclosures of cash flow information:** | | |
| Cash paid for interest | $ 402,000 | $ 326,000 |
| Cash paid for income taxes | $ 1,000 | $ 2,000 |
| | | |
| **Supplemental disclosure of non-cash investing and financing activities:** | | |
| Conversion of note payable and accrued interest to common stock | $ 3,066,000 | $ 56,000 |
| Common stock issued to settle accrued officers salary | $ 582,000 | $ - |
| Fair value of derivative liability from issuance of convertible debt, inducement shares and warrant features | $ 1,694,000 | $ 1,256,000 |
| Fair value of warrants issued and beneficial conversion feature to extinguish debt | $ - | $ 861,000 |
| Fair value of common shares, warrants and beneficial conversion feature of issued convertible note | $ - | $ 154,000 |
| Common stock issued to settle accounts payable | $ - | $ 182,000 |
| Conversion of series A preferred stock | | $ 304,000 |

The accompanying notes are an integral part of these consolidated financial statements

## 1. DESCRIPTION OF BUSINESS

***Organization***

Cutaia Media Group, LLC ("CMG") was organized on December 12, 2012, as a limited liability company under the laws of the State of Nevada. On May 19, 2014, bBooth, Inc. was incorporated under the laws of the State of Nevada. On May 19, 2014, CMG merged into bBooth, Inc. and, thereafter, bBooth, Inc. changed its name to bBooth (USA), Inc., effective as of October 16, 2014. The operations of CMG and bBooth (USA), Inc. became known as, and are referred to herein, as "bBoothUSA."

On October 16, 2014, bBoothUSA was acquired by Global System Designs, Inc. ("GSD"), pursuant to a Share Exchange Agreement entered into with GSD (the "Share Exchange Agreement"). GSD was incorporated in the State of Nevada on November 27, 2012. The acquisition was accounted for as a reverse merger transaction. In connection with the closing of the transactions contemplated by the Share Exchange Agreement, GSD's management was replaced by bBoothUSA's management, and GSD changed its name to bBooth, Inc.

Effective April 21, 2017, we changed our corporate name from bBooth, Inc. to nFüsz, Inc. The name change was effected through a parent/subsidiary short-form merger of nFüsz, Inc., our wholly-owned Nevada subsidiary, formed solely for the purpose of the name change, with and into us. We were the surviving entity. To effectuate the name-change merger, we filed Articles of Merger and a Certificate of Correction (relative to the effective date of the name-change merger) with the Secretary of State of the State of Nevada on April 4, 2017 and April 17, 2017, respectively. The name-change merger became effective on April 21, 2017. Our board of directors approved the name-change merger, which resulted in the name change on that date. In accordance with Section 92A.180 of the Nevada Revised Statutes (the "NRS"), stockholder approval of the name-change merger was not required.

Effective February 1, 2019, we changed our corporate name from nFüsz, Inc. to Verb Technology Company, Inc. The name change was effected through a parent/subsidiary short-form merger of Verb Technology Company, Inc., our wholly-owned Nevada subsidiary, formed solely for the purpose of the name change, with and into us. We were the surviving entity. To effectuate the name-change merger, we filed Articles of Merger with the Secretary of State of the State of Nevada on January 31, 2019. The name-change merger became effective on February 1, 2019. Our board of directors approved the name-change merger, which resulted in the name change on that date. In accordance with Section 92A.180 of the NRS, stockholder approval of the name-merger was not required.

On February 1, 2019, we implemented a 1-for-15 reverse stock split (the "Reverse Stock Split") of our common stock, $0.0001 par value per share (the "Common Stock"). The Reverse Stock Split became effective upon commencement of trading of our Common Stock on February 4, 2019. As a result of the Reverse Stock Split, every fifteen (15) shares of our pre-Reverse Stock Split Common Stock were combined and reclassified into one share of our Common Stock. The number of shares of Common Stock subject to outstanding options, warrants, and convertible securities were also reduced by a factor of fifteen as of February 1, 2019. All historical share and per-share amounts reflected throughout our consolidated financial statements and other financial information in this Annual Report have been adjusted to reflect the Reverse Stock Split as if the split occurred as of the earliest period presented. The par value per share of our Common Stock was not affected by the Reverse Stock Split.

***Nature of Business***

We are an applications services provider marketing cloud-based business software products under the brand name "Tagg" on a subscription basis. Our flagship product, TaggCRM, is a Customer Relationship Management ("CRM") application that is distinguishable from other CRM programs because it utilizes interactive video as the primary means of communication between sales and marketing professionals and their clients or prospects. TaggCRM allows our users to create, distribute, and post interactive videos that contain on-screen clickable "Taggs" which are interactive icons, buttons, and other on-screen elements, that when clicked, allow their prospects and customers to respond to our users' call to action in real-time, in the video, while the video is playing, without leaving or stopping the video. For example, our technology allows a prospective customer or a prospect the ability to click on a product they see featured in a video and buy it, or to click on a calendar icon in the video to make an appointment with a salesperson, among many other features and functionality. Tagg videos can be distributed via email or text messaging and can be posted on social media. Our users report increased sales conversion rates compared to traditional, non-interactive video.

We developed the proprietary patent-pending interactive video technology that serves as the basis for all of our cloud, Software-as-a-Service ("SaaS") Tagg applications. Our Tagg applications are accessible on all mobile and desktop devices and no software download is required to view the Tagg interactive videos. The Tagg applications also provide detailed analytics in the application dashboard that reflect when the videos were viewed, by whom, how many times, for how long, and what interactive Taggs were clicked-on in the video, among other things, all of which assist our users in focusing their sales and marketing efforts by identifying which clients or prospects have interest in the subject matter of the video. TaggCRM users receive a text message immediately notifying them that a customer prospect received their video and additional text messages notifying them when that customer or prospect watched the video and shared the video so they can follow-up in real-time.

Our Tagg application platform can accommodate any size sales or marketing campaign, and it is enterprise-class scalable to meet the needs of today's global organizations.

Our TaggMED application is designed for physicians and other healthcare providers to create more efficient and effective interactive communications with patients. Patients are able to avoid unnecessary and inconvenient visits to their physicians' or other healthcare providers' offices by viewing and responding to interactive videos through in-video, on-screen clicks that are designed to assess the patient's need for an office visit. If the patient's responses to the interactive video indicate that an office visit is either necessary or desirable, the patient can schedule the office visit right in through video in real time. Patients can also download and print prescriptions, care instructions, and other physician distributed documents right from and through the video. TaggMED is offered on a subscription basis.

Our TaggEDU application is designed for teachers and school administrators for more effective communications with students, parents, and faculty. TaggEDU allows teachers to deliver interactive video lessons to students that are both more engaging and more effective. TaggEDU allows teachers to communicate with students through their mobile devices and computers to deliver lessons and tests/quizzes on the screen and in the Tagg video. The analytics capabilities of TaggEDU available on the application dashboard of the teacher or school administrator allow them to track which students watched the lesson, when, for how long, how many times, and track and report on test/quiz results. TaggEDU is offered on a subscription basis.

Our TaggLIVE application is also part of our proprietary interactive Tagg video applications portfolio. TaggLIVE is a Facebook application that works in conjunction with Facebook Live, allowing users of Facebook Live to place clickable Taggs on the screens of everyone watching their Facebook Live broadcasts in real time. Viewers can click the on-screen Taggs to purchase products and services placed there and offered by the person utilizing our TaggLIVE Facebook application. Tagg LIVE is scheduled for release in the first quarter of 2019.

***Going Concern***

The accompanying consolidated financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the settlement of liabilities and commitments in the normal course of business. As reflected in the accompanying consolidated financial statements, during the year ended December 31, 2018, the Company incurred a net loss of $12,127,000, used cash in operations of $4,157,000 and had a stockholders' deficit of $5,055,000 as of December 31, 2018. These factors raise substantial doubt about the Company's ability to continue as a going concern within one year after the date of the financial statements being issued. The ability of the Company to continue as a going concern is dependent upon the Company's ability to raise additional funds and implement its business plan. The financial statements do not include any adjustments that might be necessary if the Company is unable to continue as a going concern.

Our continuation as a going concern is dependent on our ability to obtain additional financing until we can generate sufficient cash flows from operations to meet our obligations. We intend to continue to seek additional debt or equity financing to continue our operations. There is no assurance that we will ever be profitable or that debt or equity financing will be available to us. The consolidated financial statements do not include any adjustments to reflect the possible future effects on the recoverability and classification of assets or the amounts and classifications of liabilities that may result should we be unable to continue as a going concern.

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

***Principles of Consolidation***

The consolidated financial statements include the accounts of Verb Technology Company, Inc. (formerly nFüsz, Inc. and, before that, bBooth, Inc.)

***Use of Estimates***

The preparation of financial statements in conformity with Generally Accepted Accounting Principles ("GAAP") requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reported periods. Significant estimates include assumptions made in analysis of impairment of long term assets, realization of deferred tax assets, determining fair value of derivative liabilities, and value of equity instruments issued for services. Amounts could materially change in the future.

***Revenue Recognition***

We generate substantially all of our revenue from subscription services, which are comprised of subscription fees from customer accounts. Subscription service arrangements are generally non-cancelable and do not provide for refunds to customers in the event of cancellations or any other right of return. We record revenue net of sales or excise taxes.

On January 1, 2018, the Company adopted Accounting Standards Codification ("ASC") 606, Revenue from Contracts with Customers. The underlying principle of ASC 606 is to recognize revenue to depict the transfer of goods or services to customers at the amount expected to be collected. ASC 606 creates a five-step model that requires entities to exercise judgment when considering the terms of contract(s), which includes (1) identifying the contract(s) or agreement(s) with a customer, (2) identifying our performance obligations in the contract or agreement, (3) determining the transaction price, (4) allocating the transaction price to the separate performance obligations, and (5) recognizing revenue as each performance obligation is satisfied. Under ASC 606, revenue is recognized when performance obligations under the terms of a contract are satisfied, which occurs for the Company upon shipment or delivery of products or services to our customers based on written sales terms, which is also when control is transferred. Revenue is measured as the amount of consideration we expect to receive in exchange for transferring the products or services to a customer.

The implementation of ASC 606 had no impact on the prior period financial statements and no cumulative effect adjustment was recognized.

***Property and Equipment***

Property and equipment are recorded at historical cost and depreciated on a straight-line basis over their estimated useful lives of approximately five years once the individual assets are placed in service.

***Long-Lived Assets***

The Company evaluates long-lived assets for impairment whenever events or changes in circumstances indicate that their net book value may not be recoverable. When such factors and circumstances exist, the Company compares the projected undiscounted future cash flows associated with the related asset or group of assets over their estimated useful lives against their respective carrying amount. Impairment, if any, is based on the excess of the carrying amount over the fair value, based on market value when available, or discounted expected cash flows, of those assets and is recorded in the period in which the determination is made. No impairment of long-lived assets was required for the years ended December 31, 2018 and 2017.

***Income Taxes***

The Company accounts for income taxes under Financial Accounting Standards Board's ("FASB") ASC 740 "Income Taxes." Under the asset and liability method of ASC 740, deferred tax assets and liabilities are recognized for the expected future tax consequences of events that have been included in the financial statements or tax returns. Under this method, deferred tax assets and liabilities are determined based on the differences between the financial reporting and tax bases of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to reverse. The deferred tax assets of the Company relate primarily to operating loss carry-forwards for federal income tax purposes. A full valuation allowance for deferred tax assets has been provided because the Company believes it is not more likely than not that the deferred tax asset will be realized. Realization of deferred tax assets is dependent on the Company generating sufficient taxable income in future periods.

The Company periodically evaluates its tax positions to determine whether it is more likely than not that such positions would be sustained upon examination by a tax authority for all open tax years, as defined by the statute of limitations, based on their technical merits. The Company accrues interest and penalties, if incurred, on unrecognized tax benefits as components of the income tax provision in the accompanying consolidated statements of operations. As of December 31, 2018, and 2017, the Company has not established a liability for uncertain tax positions.

***Deferred Offering Costs***

Deferred offering costs consist principally of legal, accounting, and underwriters' fees incurred related to the contemplated underwritten public offering of the Company's Common Stock. These deferred offering costs will be charged against the gross proceeds received or will be charged to expense if the offering is not completed.

***Derivative Financial Instruments***

The Company evaluates its financial instruments to determine if such instruments are derivatives or contain features that qualify as embedded derivatives. For derivative financial instruments that are accounted for as liabilities, the derivative instrument is initially recorded at its fair value and is then re-valued at each reporting date, with changes in the fair value reported in the consolidated statements of operations. The classification of derivative instruments, including whether such instruments should be recorded as liabilities or as equity, is evaluated at the end of each reporting period. Derivative instrument liabilities are classified in the balance sheet as current or non-current based on whether or not net-cash settlement of the derivative instrument could be required within 12 months of the balance sheet date.

The Company uses Level 2 inputs for its valuation methodology for the derivative liabilities as their fair values were determined by using a probability weighted average Black-Scholes-Merton pricing model based on various assumptions. The Company's derivative liabilities are adjusted to reflect fair value at each period end, with any increase or decrease in the fair value being recorded in results of operations as adjusted to fair value of derivatives.

***Share Based Payment***

The Company issues stock options, Common Stock, and equity interests as share-based compensation to employees and non-employees.

The Company accounts for its share-based compensation to employees in accordance FASB ASC 718 "Compensation – Stock Compensation." Stock-based compensation cost is measured at the grant date, based on the estimated fair value of the award, and is recognized as expense over the requisite service period.

The Company accounts for share-based compensation issued to non-employees and consultants in accordance with the provisions of FASB ASC 505-50*"*Equity – Based Payments to Non-Employees.*"* Measurement of share-based payment transactions with non-employees is based on the fair value of whichever is more reliably measurable: (a) the goods or services received or (b) the equity instruments issued. The final fair value of the share-based payment transaction is determined at the performance completion date. For interim periods, the fair value is estimated, and the percentage of completion is applied to that estimate to determine the cumulative expense recorded.

The Company values stock compensation based on the market price on the measurement date. As described above, for employees this is the date of grant, and for non-employees, this is the date of performance completion.

The Company values stock options using the Black-Scholes option pricing model. Assumptions used in the Black-Scholes model to value options issued during the years ended December 31, 2018 and 2017 are as follows:

| | Year Ended December 31, 2018 | Year Ended December 31, 2017 |
|---|---|---|
| Expected life in years | 5.0 | 2.5 to 5.0 |
| Stock price volatility | 184.45% -190.22% | 84.36% - 173.92% |
| Risk free interest rate | 2.25% - 3.00% | 1.22% - 2.23% |
| Expected dividends | 0% | 0% |
| Forfeiture rate | 18% | 21% |

The risk-free interest rate was based on rates established by the Federal Reserve Bank. The Company uses the historical volatility of its Common Stock to estimate the future volatility for its Common Stock. The expected dividend yield was based on the fact that the Company has not customarily paid dividends in the past and does not expect to pay dividends in the future.

***Research and Development Costs***

Research and development costs consist of expenditures for the research and development of new products and technology. These costs are primarily expenses to vendors contracted to perform research projects and develop technology for the Company's cloud-based, Tagg interactive video CRM SaaS platform.

***Net Loss Per Share***

Basic net loss per share is computed by using the weighted-average number of common shares outstanding during the period. Diluted net loss per share is computed giving effect to all dilutive potential shares of Common Stock that were outstanding during the period. Dilutive potential shares of Common Stock consist of incremental shares of Common Stock issuable upon exercise of stock options. No dilutive potential shares of Common Stock were included in the computation of diluted net loss per share because their impact was anti-dilutive. As of December 31, 2018, and 2017, the Company had total outstanding options of 2,478,974 and 1,456,064, respectively, and warrants of 940,412 and 1,895,761, respectively, which were excluded from the computation of net loss per share because they are anti-dilutive.

***Fair Value of Financial Instruments***

The Company follows paragraph 825-10-50-10 of the FASB ASC for disclosures about fair value of its financial instruments and paragraph 820-10-35-37 of the FASB ASC ("Paragraph 820-10-35-37") to measure the fair value of its financial instruments. Paragraph 820-10-35-37 establishes a framework for measuring fair value under GAAP, and expands disclosures about fair value measurements. To increase consistency and comparability in fair value measurements and related disclosures, Paragraph 820-10-35-37 establishes a fair value hierarchy which prioritizes the inputs to valuation techniques used to measure fair value into three (3) broad levels. The fair value hierarchy gives the highest priority to quoted prices (unadjusted) in active markets for identical assets or liabilities and the lowest priority to unobservable inputs.

The three (3) levels of fair value hierarchy defined by Paragraph 820-10-35-37 are described below:

Level 1: Quoted market prices available in active markets for identical assets or liabilities as of the reporting date.
Level 2: Pricing inputs other than quoted prices in active markets included in Level 1, which are either directly or indirectly observable as of the reporting date.
Level 3: Pricing inputs that are generally observable inputs and not corroborated by market data.

The carrying amount of the Company's financial assets and liabilities, such as cash and cash equivalents, prepaid expenses, and accounts payable and accrued expenses approximate their fair value due to their short-term nature. The carrying values financing obligations approximate their fair values due to the fact that the interest rates on these obligations are based on prevailing market interest rates. The Company uses Level 2 inputs for its valuation methodology for the derivative liabilities.

***Concentrations***

During the year ended December 31, 2018, the Company had a single vendor that accounted for 5% of all purchases, and 20.7% of all purchases in the same period in the prior year.

***Recent Accounting Pronouncements***

In February 2016, the FASB issued Accounting Standards Update No. 2016-02 (ASU 2016-02), Leases (Topic 842). ASU 2016-02 requires a lessee to record a right-of-use asset and a corresponding lease liability, initially measured at the present value of the lease payments, on the balance sheet for all leases with terms longer than 12 months, as well as the disclosure of key information about leasing arrangements. ASU 2016-02 requires recognition in the statement of operations of a single lease cost, calculated so that the cost of the lease is allocated over the lease term, generally on a straight-line basis. ASU 2016-02 requires classification of all cash payments within operating activities in the statement of cash flows. Disclosures are required to provide the amount, timing and uncertainty of cash flows arising from leases. A modified retrospective transition approach is required for lessees for capital and operating leases existing at, or entered into after, the beginning of the earliest comparative period presented in the financial statements, with certain practical expedients available. ASU 2016-02 is effective for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. Early application is permitted. The Company has not yet evaluated the impact of the adoption of ASU 2016-02 on the Company's financial statement presentation or disclosures.

In July 2017, the FASB issued ASU No. 2017-11, "Earnings Per Share (Topic 260); Distinguishing Liabilities from Equity (Topic 480); Derivatives and Hedging (Topic 815): (Part I) Accounting for Certain Financial Instruments with Down Round Features; (Part II) Replacement of the Indefinite Deferral for Mandatorily Redeemable Financial Instruments of Certain Nonpublic Entities and Certain Mandatorily Redeemable Noncontrolling Interests with a Scope Exception" ("ASU 2017-11"). ASU 2017-11 allows companies to exclude a down round feature when determining whether a financial instrument (or embedded conversion feature) is considered indexed to the entity's own stock. As a result, financial instruments (or embedded conversion features) with down round features may no longer be required to be accounted for as derivative liabilities. A company will recognize the value of a down round feature only when it is triggered, and the strike price has been adjusted downward. For equity-classified freestanding financial instruments, an entity will treat the value of the effect of the down round as a dividend and a reduction of income available to Common Stock holders in computing basic earnings per share. For convertible instruments with embedded conversion features containing down round provisions, entities will recognize the value of the down round as a beneficial conversion discount to be amortized to earnings. ASU 2017-11 is effective for fiscal years beginning after December 15, 2018, and interim periods within those fiscal years. Early adoption is permitted. The guidance in ASU 2017-11 can be applied using a full or modified retrospective approach. The Company is currently evaluating the impact of the adoption of ASU 2017-11 on the Company's financial statement presentation or disclosures.

In June 2018, the FASB issued Accounting Standards Update 2018-07, Compensation – Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting ("ASU 2018-07"). ASU 2018-07 expands the scope of Topic 718 to include share-based payment transactions for acquiring goods and services from nonemployees. ASU 2018-07 also clarifies that Topic 718 does not apply to share-based payments used to effectively provide (1) financing to the issuer or (2) awards granted in conjunction with selling goods or services to customers as part of a contract accounted for under Revenue from Contracts with Customers (Topic 606). ASU 2018-07 is effective for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. Early adoption is permitted. The Company will adopt the provisions of ASU 2018-07 in the quarter beginning January 1, 2019. The adoption of ASU 2018-07 is not expected to have any impact on the Company's financial statement presentation or disclosures.

Other recent accounting pronouncements issued by the FASB, including its Emerging Issues Task Force, the American Institute of Certified Public Accountants, and the Securities and Exchange Commission did not or are not believed by management to have a material impact on the Company's present or future consolidated financial statements.

## 3. PROPERTY AND EQUIPMENT

Property and equipment consisted of the following as of December 31, 2018 and 2017.

| | December 31, 2018 | December 31, 2017 |
|---|---|---|
| Furniture and fixtures | $ 57,000 | $ 57,000 |
| Office equipment | 51,000 | 51,000 |
| | 108,000 | 108,000 |
| Less: accumulated depreciation | (97,000) | (77,000) |
| | $ 11,000 | $ 31,000 |

Depreciation expense amounted to $20,000 and $22,000 for the year ended December 31, 2018 and 2017, respectively.

## 4. NOTES PAYABLE

On March 21, 2015, the Company issued a note payable to a third-party lender for the benefit of DelMorgan Group LLC ("DelMorgan"), financial consultant. The note was unsecured, bore interest at a rate of 12% per annum, payable monthly beginning on April 20, 2015, and had an original maturity date of March 20, 2017.

On March 20, 2017, the Company entered into an extension agreement with the third-party lender to extend the maturity date of the note to March 20, 2018. All other terms of the note remained unchanged and there was no additional compensation or incentive given. As of December 31, 2017, the outstanding balance of the note amounted to $125,000.

On January 29, 2018, the Company settled the debt of $125,000 in exchange for 83,333 shares of its Common Stock. There was no gain or loss recognized as the fair value of the shares of Common Stock issued approximated the note payable settled.

## 5. NOTES PAYABLE – RELATED PARTIES

The Company has the following related parties outstanding notes payable as of December 31, 2018 and 2017:

| Note | Issuance Date | Maturity Date | Interest Rate | Original Borrowing | Balance at December 31, 2018 | Balance at December 31, 2017 |
|---|---|---|---|---|---|---|
| Note 1 (A) | December 1, 2015 | February 8, 2021 | 12.0% | $ 1,249,000 | $ 825,000 | $ 1,199,000 |
| Note 2 (B) | December 1, 2015 | February 8, 2021 | 12.0% | 189,000 | - | 189,000 |
| Note 3 (C) | December 1, 2015 | April 1, 2017 | 12.0% | 112,000 | 112,000 | 112,000 |
| Note 4 (D) | April 4, 2016 | June 4, 2021 | 12.0% | 343,000 | 240,000 | 343,000 |
| Note 5 (E) | April 4, 2016 | December 4, 2018 | 12.0% | 122,000 | - | 122,000 |
| Total notes payable – related parties | | | | | 1,177,000 | 1,965,000 |
| Non-current | | | | | (1,065,000) | - |
| Current | | | | | $ 112,000 | $ 1,965,000 |

(A) On December 1, 2015, the Company issued a convertible note payable to Mr. Rory J. Cutaia, the Company's majority stockholder and Chief Executive Officer, to consolidate all loans and advances made by Mr. Cutaia to the Company as of that date. The note bore interest at a rate of 12% per annum, was secured by the Company's assets, and matured on April 1, 2017. Pursuant to the terms of the agreement, at Mr. Cutaia's discretion, he could convert up to 30%, or $375,000, of the outstanding principal, plus accrued interest thereon, into shares of Common Stock at a conversion rate of $1.05 per share.

On May 4, 2017, the Company entered into an extension agreement with Mr. Cutaia to extend the maturity date of the note from April 1, 2017 to August 1, 2018. In consideration, the Company issued Mr. Cutaia a three-year warrant to purchase up to 117,013 shares of Common Stock at a price of $5.33 per share with a fair value of $517,000. All other terms of the note remain unchanged. The Company determined that the extension of the note's maturity resulted in a debt extinguishment for accounting purposes since the fair value of the warrants granted was more than 10% of the original value of the convertible note. As result, the Company recorded the fair value of the new note, which approximated the original carrying value $1,199,000 and expensed the fair value of the warrants granted of $517,000 as debt extinguishment costs. As of December 31, 2017, total outstanding balance of the note amounted to $1,199,000.

On August 8, 2018, the Company entered into an extension agreement with Mr. Cutaia to extend the maturity date of the note to February 8, 2021. In consideration for extending the note the Company issued Mr. Cutaia warrants exercisable for up to 163,113 shares of Common Stock with a fair market value of $1,075,000. The Company determined that the extension of the note's maturity date resulted in a debt extinguishment for accounting purposes since the fair value of the warrants granted was more than 10% of the original value of the convertible note. As result, the Company recorded the fair value of the new note which approximates the original carrying value $1,199,000 and expensed the entire fair value of the warrants granted, or $1,075,000 as a debt extinguishment cost.

On September 30, 2018, Mr. Cutaia converted the convertible principal balance of $375,000 at $1.05 per share into 356,824 shares of restricted Common Stock.

As of December 31, 2018, the outstanding balance of the note amounted to $825,000.

(B) On December 1, 2015, the Company issued a convertible note with Mr. Cutaia in the amount of $189,000 representing a portion of Mr. Cutaia's accrued salary for 2015. The note was unsecured, bore interest at a rate of 12% per annum, and matured in April 2017. The note was convertible into shares of Common Stock at a conversion price of $1.05 per share.

On May 4, 2017, the Company entered into an extension agreement with Mr. Cutaia to extend the maturity date of the note from April 1, 2017 to August 1, 2018. All other terms of the note remain unchanged and there were no additional compensation or incentive given. As of December 31, 2017, the outstanding balance of the note amounted to $189,000.

On September 30, 2018, Mr. Cutaia converted the entire outstanding principal amount of $189,000 into 180,000 shares of restricted Common Stock.

(C) On December 1, 2015, the Company issued a note payable to a former member of the Company's board of directors, in the amount of $112,000 representing unpaid consulting fees as of November 30, 2015. The note is unsecured, bears interest rate of 12% per annum, and matured in April 2017. As of December 31, 2017, and 2018, the outstanding principal balance of the note was equal to $112,000. As of December 31, 2018, the note was past due, and remains past due. The Company is currently in negotiations with the noteholder to settle the past due note.

(D) On April 4, 2016, the Company issued a convertible note to Mr. Cutaia, in the amount of $343,000, to consolidate all advances made by Mr. Cutaia to the Company during the period December 2015 through March 2016. The note bore interest at a rate of 12% per annum, was secured by the Company's assets, and matured on August 4, 2017. Pursuant to the terms of the note, a total of 30%, or $103,000, of the note principal can be converted to shares of Common Stock at a conversion price $1.05 per share.

On August 4, 2017, the Company entered into an extension agreement with Mr. Cutaia to extend the maturity date of the note from August 4, 2017 to December 4, 2018. In consideration for extending the note's maturity, the Company issued Mr. Cutaia warrants to purchase up to 88,610 shares of Common Stock at a price of $2.25 per share with a fair value of $172,000. All other terms of the note remain unchanged. The Company determined that the extension of the note's maturity resulted in a debt extinguishment for accounting purposes since the fair value of the warrants granted was more than 10% of the recorded value of the original convertible note. As a result, the Company recorded the fair value of the new note, which approximated the original carrying value $343,000 and expensed the entire fair value of the warrants granted of $172,000 as part of loss on debt extinguishment. As of December 31, 2017, the outstanding balance of the note was $343,000.

On September 30, 2018, Mr. Cutaia converted the 30% principal amount of the note, or $103,000 of into 98,093 shares of restricted Common Stock.

On December 4, 2018, the Company entered into an extension agreement with Mr. Cutaia to extend the maturity date of the note to June 4, 2021. In consideration for extending the note, the Company issued Mr. Cutaia warrants to purchase up to 23,562 shares of Common Stock, with a fair market value of the warrants totaling $111,000. The Company determined that the extension of the note's maturity resulted in a debt extinguishment for accounting purposes since the fair value of the warrants granted was more than 10% of the original value of the convertible note. As result, the Company recorded the fair value of the new note, which approximates the original carrying value of $240,000 and expensed the entire fair value of the warrants granted of $111,000 as part of loss on debt extinguishment.

As of December 31, 2018, the outstanding balance of the note amounted to $240,000.

(E) On April 4, 2016, the Company issued a convertible note payable to Mr. Cutaia in the amount of $122,000, representing his unpaid salary from December 2015 through March 2016. The note was unsecured, bore interest at a rate of 12% per annum, compounded annually, and matured on August 4, 2017. The note was also convertible into shares of the Company's Common Stock at $1.05 per share.

On August 4, 2017, the Company entered into an extension agreement with Mr. Cutaia to extend the maturity date of the note from August 4, 2017 to December 4, 2018. All other terms of the note remain unchanged and there were no additional compensation or incentive given. As of December 31, 2017, the outstanding balance of the note amounted to $122,000.

On September 30, 2018, Mr. Cutaia converted $122,000 of outstanding principal amount into 116,701 shares of restricted Common Stock.

During the year ended December 31, 2018, the Company recorded total interest expense totaling $211,000 pursuant to the terms of the notes and paid $269,000 in interest.

## 6. CONVERTIBLE NOTES PAYABLE

The Company has the following outstanding convertible notes payable as of December 31, 2018 and 2017:

| Note | Note Date | Maturity Date | Interest Rate | Original Borrowing | Balance at December 31, 2018 | Balance at December 31, 2017 |
|---|---|---|---|---|---|---|
| Note payable (a) | April 3, 2016 | April 4, 2018 | 12% | $ 680,000 | $ - | $ 680,000 |
| Note payable (b) | June and August 2017 | February and March 2018 | 5% | $ 220,000 | - | 220,000 |
| Note payable (c) | Various | Various | 5% | $ 320,000 | - | 320,000 |
| Note payable (d) | December 8, 2017 | December 8, 2018 | 8% | $ 370,000 | - | 370,000 |
| Note payable (e) | December 13, 2017 | September 20, 2018 | 8% | $ 105,000 | - | 105,000 |
| Note payable (f) | October 19, 2018 | April 19, 2019 | 10% | $ 1,500,000 | 1,500,000 | - |
| Note payable (g) | October 30, 2018 | April 29, 2019 | 5% | $ 400,000 | 400,000 | - |
| Total notes payable | | | | | 1,900,000 | 1,695,000 |
| Debt discount | | | | | (1,082,000) | (675,000) |
| Total notes payable, net of debt discount | | | | | $ 818,000 | $ 1,020,000 |

(a) On April 3, 2016, the Company issued a convertible note payable to Oceanside Strategies, Inc. ("Oceanside"), a third party-lender, in the amount of $680,000 to consolidate all notes payable and accrued interest due to Oceanside as of that date. This note superseded and replaced all previous notes and liabilities due to Oceanside from fiscal years 2014 and 2015. The note was unsecured, bore interest at the rate of 12% per annum, compounded annually, and had an original maturity date of December 30, 2016. Pursuant to the terms of the note, the Company granted Oceanside the right to convert up to 30% of the principal amount of such note, or $204,000, into shares of common stock at a conversion price $1.05 per share and granted warrants to purchase up to 161,969 shares of Common Stock at $1.05 per share until April 4, 2019.

On December 30, 2016, the Company entered into an extension agreement with Oceanside to extend the maturity date of the note from December 30, 2016 to August 4, 2017. All other terms of the note remain unchanged. In consideration for Oceanside's agreement to extend the maturity date to August 4, 2017, the Company granted Oceanside a warrant to purchase up to 161,969 shares of the Company's Common Stock, exercisable at $1.20 per share until December 29, 2019, with a fair value of $159,000.

On August 4, 2017, the Company entered into an extension agreement with Oceanside to extend the maturity date of the note from August 4, 2017 to April 4, 2018. All other terms of the note remain unchanged. In consideration for Oceanside's agreement to extend the maturity date to August 4, 2018, the Company granted Oceanside a warrant to purchase up to 87,787 shares of the Company's Common Stock, exercisable at $2.25 per share until August 3, 2022 with a fair value of $171,000. The Company determined that the extension of the note's maturity resulted in a debt extinguishment for accounting purposes since the fair value of the warrants granted was more than 10% of the recorded value of the original convertible note. As a result, Company recorded the fair value of the new note, which approximated the original carrying value of $680,000, and expensed the entire fair value of the warrants granted of $171,000 as part of loss on debt extinguishment. As of December 31, 2017, the outstanding balance of the note amounted to $680,000.

In March 2018, the entire principal amount due was settled through the issuance of 305,967 shares of Common Stock. As a result of this conversion, the Company also recorded a loss on debt extinguishment of $1,090,000 to account for the fair value of the 65,469 shares of Common Stock issued to settle the remaining 70%, or $476,000, of the note principal and accrued interest that was not initially convertible to shares of Common Stock.

(b) In June and August of 2017, the Company issued unsecured convertible notes to an unaffiliated third-party in the amount of $220,000 in exchange for cash of $200,000, representing an original issue discount of $10,500, and prepaid interest of $10,000. The notes bore interest at a rate of 5% per annum, matured in February and March 2018, and were convertible to shares of Common Stock at a conversion price of either $3.75 per share or $1.50 per share. As part of the issuance, the Company also (i) granted warrants to purchase up to 22,000 shares of Common Stock at $4.50 per share and (ii) issued 3,333 shares of Common Stock with a fair value $12,500. As a result, the Company recorded a debt discount of $175,000 to account for the original issue discount and prepaid interest of $21,000, the relative fair value of the warrants of $40,000, the fair value of the shares of Common Stock of $13,000 and the beneficial conversion feature of $102,000. The debt discount is being amortized to interest expense over the term of the note. As of December 31, 2017, the outstanding balance of the note was $220,000 and unamortized debt discount of $40,000.

In March 2018, the entire outstanding principal amount of the notes, and all accrued interest thereon, were settled and converted into 102,900 shares of Common Stock pursuant to the conversion terms of the notes and we expensed the unamortized debt discount.

(c) On September 26, 2017, we entered into a purchase agreement, dated September 15, 2017, with Kodiak Capital Group, LLC ("Kodiak"). Under the purchase agreement, the Company was entitled to, from time to time, in the Company's discretion, sell shares of its Common Stock to Kodiak for aggregate gross proceeds of up to $2,000,000. Unless terminated earlier, Kodiak's purchase commitment automatically terminates on the earlier of the date on which Kodiak has purchased our shares pursuant to the purchase agreement for an aggregate purchase price of $2,000,000, or September 15, 2019. The Company has no obligation to sell any shares under the purchase agreement.

From September 2017 through November 2017, the Company issued three convertible notes payable totaling $320,000 in exchange for cash of $200,000, representing an original issue discount of $20,000, and settlement of financing expenses of $100,000 incurred by Kodiak pursuant to the purchase agreement. The notes were unsecured, had maturity dates starting in March 2018 through June 2018, and bore interest at a rate of 5% per annum. The notes were also convertible into shares of Common Stock at price of $3.75 per share or 70% of the 10-day VWAP prior to conversion, whichever is lower. As part of the issuances, the Company also granted Kodiak a five-year, fully vested, warrant to purchase up to 133,333 shares of Common Stock, exercisable at $2.25 and $3.00 per share.

The Company determined that since there was no minimum conversion price, it could no longer determine if it had enough authorized shares to fulfill its conversion obligation. As such, pursuant to current accounting guidelines, the Company determined that the conversion feature of these three notes created a derivative with a fair value totaling $412,000 at the date of issuances. The Company accounted for the fair value of the derivative up to the face amount of the notes of $320,000 as a valuation discount to be amortized over the life of the note, and the excess of $92,000 being recorded as part of financing cost. See Note 8, *Derivative Liability,* to these audited consolidated financial statements for further discussion. In addition, the Company also recorded the notes' original issue discount totaling $20,000 and the $100,000 note payable issued to settle financing expenses related to the agreement with Kodiak as part of financing costs. As of December 31, 2017, the outstanding balance of the note was equal to $320,000 and unamortized debt discount was $191,000.

In March 2018, the Company paid Kodiak $226,000 to settle two notes payable totaling $220,000, and all accrued interest thereon, and amortized the corresponding unamortized debt discount of $114,000 to interest expense. As part of the payment, Kodiak cancelled one note payable in the outstanding principal amount of $100,000. As a result of the note's cancellation, the Company recorded a gain on debt extinguishment of $23,000, to account for the cancellation of the $100,000 note payable, less the amortization of the corresponding debt discount of $77,000.

(d) On December 8, 2017, the Company issued unsecured convertible notes to EMA Financial, LLC ("EMA") and Auctus Fund, LLC ("Auctus") totaling $370,000 in principal, in exchange for cash of $323,000, representing an original issue discount of $47,000. The notes bore interest at a rate of 8% per annum and matured on December 8, 2018. The notes were also convertible into shares of Common Stock at a conversion price equal to the lower of: (i) the closing sale price of the Common Stock on the principal market (as defined in the notes) on the trading day immediately preceding the closing date, and (ii) 70% of either the lowest sale price for the Common Stock on the principal market during the ten (10) consecutive trading days including and immediately preceding the conversion date, or the closing bid price.

The Company determined that since there was no minimum conversion price, that it could no longer determine if it had enough authorized shares to fulfill the conversion obligation. As such, pursuant to current accounting guidelines, the Company determined that the conversion feature of the note created a derivative with a fair value of $565,000 at the date of issuance. The Company accounted for the fair value of the derivative up to the face amount of the note of $370,000 as a valuation discount to be amortized over the life of the note, and the excess of $195,000 was recorded as part of financing cost. See Note 8, *Derivative Liability,* to these audited consolidated financial statements for discussion of derivative liability. In addition, the Company also recorded the notes' original issue discount of $47,000 as part of financing costs.

As part of the offering, the Company also granted EMA and Auctus a five-year warrant to acquire up to 160,000 shares of the Company's Common Stock with an exercise price of $1.65 per share. Warrants to acquire up to 80,000 shares of Common Stock contained (i) a full ratchet reset provision in the event the Company engages in a future equity offering and the Company offers equity securities at a price less than $1.65 per share and (ii) a fundamental transaction provision that could give rise to an obligation to pay cash to the warrant holder. As such, pursuant to current accounting guidelines, the Company determined that the warrant exercise price and fundamental transaction provision created a derivative with a fair value of $119,000 at the date of issuance. The Company accounted for the fair value of the derivative as part of finance cost. See Note 8, *Derivative Liability,* to these audited consolidated financial statements for discussion of derivative liability. As of December 31, 2017, outstanding balance of the notes amounted to $370,000 and unamortized debt discount was $344,000.

In January 2018, the Company issued similar convertible notes payable totaling $150,000 in exchange for cash of $130,000. The notes were secured by the Company's assets, bore interest of 8% per annum, matured in January 2019, and was convertible into shares of Common Stock at a conversion price equal to 70% of the Company's 10-day VWAP. The Company determined that since there was no minimum conversion price, that it could no longer determine if it had enough authorized shares to fulfill its conversion obligation. As such, pursuant to current accounting guidelines, the Company determined that the conversion feature of the notes created a derivative with a fair value of $253,000 at the date of issuance. The Company accounted for the fair value of the derivative up to the face amount of the note of $150,000 as a valuation discount to be amortized over the life of the note, and the excess of $103,000 was recorded as a financing cost. See Note 8, *Derivative Liability,* to these audited consolidated financial statements for discussion of derivative liability. In addition, the Company also recorded the notes' original issue discount of $20,000 as a financing cost.

As part of the convertible note offering, the Company also granted a five-year warrant to acquire up to 66,667 shares of the Company's Common Stock with an exercise price of $2.10 per share. Warrants to purchase up to 33,333 shares of Common Stock included (i) a full ratchet reset provision in the event the Company engaged in a future equity offering at an offering price less than $2.10 per share and (ii) a fundamental transaction provision that could give rise to an obligation to pay cash to the warrant holder and a reset of the exercise price. As such, pursuant to current accounting guidelines, the Company determined that the warrant exercise price and fundamental transaction provision created a derivative with a fair value of $49,000 at the date of issuance. The Company accounted for the fair value of the derivative as a financing cost. See Note 8, *Derivative Liability,* to these audited consolidated financial statements for discussion of derivative liability.

In March 2018, the Company settled the entire outstanding principal amount of the notes in cash and expensed the corresponding debt discount of $494,000.

(e) On December 14, 2017, the Company issued an unsecured convertible note to PowerUp Lending Group, Ltd. in the amount of $105,000 in exchange for cash of $90,000, representing an original issue discount of $15,000. The note matured on September 20, 2018 and bore interest at a rate of 8% per annum. The note was convertible into shares of Common Stock at a conversion price equal to 70% multiplied by the market price, which is equal to the lowest trading price of the Common Stock during the ten (10) trading day period ending on the latest complete trading day prior to the conversion date.

The Company determined that since there was no minimum conversion price, it could no longer determine if it had enough authorized shares to fulfill the conversion obligation. As such, pursuant to current accounting guidelines, the Company determined that the conversion feature of the note created a derivative with a fair value of $160,000 at the date of issuance. The Company accounted for the fair value of the derivative up to the face amount of the note of $105,000 as a valuation discount to be amortized over the life of the note, and the excess of $55,000 being recorded as part of financing cost. See Note 8, *Derivative Liability,* to these audited consolidated financial statements for discussion of derivative liability. In addition, the Company also recorded the note's original issue discount of $15,000 as part of financing costs. As of December 31, 2017, the outstanding principal amount of the note was $105,000 and unamortized debt discount was $100,000.

In March 2018, the Company settled the principal amount of the note and expensed the corresponding debt discount of $100,000.

(f) On October 19, 2018, the Company issued an unsecured convertible note to Bellridge Capital, LP ("Bellridge"), an unaffiliated third-party entity, in the aggregate principal amount of $1,500,000 in exchange for net proceeds of $1,242,000, representing an original issue discount of $150,000, and paid legal and financing expenses of $109,000. In addition, the Company issued 96,667 shares of its Common Stock with a fair value of $595,000. The note is unsecured and does not bear interest; however, the implied interest was determined to be 10% since the note was issued at 10% less than its face value. The note matures in April 2019. The note is also convertible into shares of the Company's Common Stock only on or after the occurrence of an uncured "Event of Default." Primarily, the Company will be in default if it does not repay the principal amount of the note, as required. The other events of default are standard for the type of transaction represented by the related securities purchase agreement and the note. The conversion price in effect on any date on which some or all of the principal of the note is to be converted shall be a price equal to 70% of the lowest VWAP during the ten trading days immediately preceding the date on which the third party provided its notice of conversion. Upon an Event of Default, the Company will owe the third party an amount equivalent to 110% of the then-outstanding principal amount of the note in addition to of all other amounts, costs, expenses, and liquidated damages that might also be due in respect thereof. The Company has agreed that, on or after the occurrence of an Event of Default, it will reserve and keep available that number of shares of its Common Stock that is at least equal to 200% of the number of such shares that potentially would be issuable pursuant to the terms of the securities purchase agreement and the note (assuming conversion in full of the note and on any date of determination). The Company determined that, because the conversion price is unknown, the Company could not determine if it had enough authorized shares to fulfill the conversion obligation. As such, pursuant to current accounting guidelines, the Company determined that the conversion feature of the note created a derivative with a fair value of $1,273,000 at the date of issuance.

As a result of the issuance of the note, the Company incurred aggregate costs of $2,126,000 related to the note's original issue discount, legal and financing expenses, the fair value of the Common Stock issued and the recognition of the derivative liability. The Company recorded these costs as a note discount up to the face value of the note of $1,500,000 and the remaining $626,000 as financing costs. The note discount is being amortized over the six-month term of the note.

As of December 31, 2018, the outstanding balance of the note amounted to $1,500,000 and unamortized debt discount of $881,000.

(g) On October 30, 2018, the Company issued two unsecured convertible notes to one current investor and one otherwise unaffiliated third-party in the aggregate principal amount of $400,000. The notes bear interest at a rate of 5% per annum and will mature on April 29, 2019. Upon the Company's consummation of the contemplated underwritten public offering of the Company's Common Stock, all, and not less than all, of (i) the outstanding principal amount and (ii) the accrued interest thereunder will be converted into shares of the Company's Common Stock that shall have been registered therein. The per-share conversion price will be seventy-five percent (75%) of the offering price of the Common Stock. The Company determined that, because the conversion price is unknown, that the Company could not determine if it had enough authorized shares to fulfill the conversion obligation. As such, pursuant to current accounting guidelines, the Company determined that the conversion feature of the notes created a derivative with a fair value of $302,000 at the date of issuance and was accounted as a debt discount and is being amortized over the term of the notes payable.

As of December 31, 2018, outstanding balance of the note amounted to $400,000 and unamortized debt discount was $201,000.

## 7. CONVERTIBLE SERIES A PREFERRED STOCK

On February 14, 2017, the Company entered into a Securities Purchase Agreement with an unaffiliated, accredited investor for the sale and issuance of its Series A preferred stock. As part of the agreement, the investor agreed to purchase a total of 1,050,000 shares of Series A Preferred Stock valued at $1,050,000 in exchange for cash of $1,000,000, or a discount of $50,000, in various tranches.

The Series A preferred stock had the following rights and privileges:

- 25% redemption premium;
- Senior rights in terms preference as to dividends, distributions and payments upon the liquidation, dissolution, and winding up of the Company;
- Accrued dividends at a rate of 5% per annum;
- Mandatorily redeemable at an installment basis starting August 13, 2017 in the amount of $63,000 plus accrued interest. The Company had the option to redeem the Series A preferred stock shares in cash or in shares of Common Stock based upon the Company's 5-day Volume Weighted Average Price ("VWAP").

The Company considered the guidance of ASC 480-10, Distinguishing Liabilities From Equity to determine the appropriate treatment of the Series A preferred stock shares. Pursuant to ASC 480-10, the Company determined that the Series A preferred stock shares was an obligation to be settled, at the option of the Company, in cash or in variable number of shares of Common Stock with a fixed monetary value that should be recorded as a liability under ASC 480-10.

During the year ended December 31, 2017, the Company issued 630,000 Series A preferred stock shares in exchange for cash of $555,000 and a discount of $75,000. Subsequent to the issuance of the Series A preferred stock shares, the Company redeemed the entire Series A preferred stock shares totaling $630,000 in exchange for 190,800 shares of Common Stock with a fair value of $304,000 and cash payments totaling $543,000 for a total redemption price of $847,000. As a result of this redemption, the Company recognized interest expense of $217,000 to account for the 25% redemption premium of $158,0000, the excess of the fair value of the Common Stock shares issued over the Series A preferred stock shares of $46,000 and the 5% interest due of $14,000. In addition, the Company also amortized the entire $75,000 discount to interest expense. As of December 31, 2017, all of the Series A preferred stock shares were fully redeemed, and no shares remained outstanding.

## 8. DERIVATIVE LIABILITY

Under authoritative guidance used by the FASB on determining whether an instrument (or embedded feature) is indexed to an entity's own stock, instruments which do not have fixed settlement provisions are deemed to be derivative instruments. The Company has issued certain convertible notes whose conversion price contains reset provisions based on a future offering price and/or whose conversion price is based on a future market price. However, since the number of shares to be issued is not explicitly limited, the Company is unable to conclude that enough authorized and unissued shares are available to share settle the conversion option. In addition, the Company also granted certain warrants whose exercise price is subject to reset based on a future market price.

As a result, the conversion option and warrants are classified as a liability and bifurcated from the debt host and accounted for as a derivative liability in accordance with ASC 815 and will be re-measured at the end of every reporting period with the change in value reported in the statement of operations.

The derivative liabilities were valued using a probability weighted average Black-Scholes-Merton pricing model with the following average assumptions:

| | Upon Issuance | December 31, 2018 | December 31, 2017 |
|---|---|---|---|
| Stock Price | $ 3.00 | $ 4.80 | $ 1.50 |
| Exercise Price | $ 2.25 | $ 2.70 | $ 0.90 |
| Expected Life | 1.60 | 1.78 | 1.26 |
| Volatility | 177% | 184% | 189% |
| Dividend Yield | 0% | 0% | 0% |
| Risk-Free Interest Rate | 1.70% | 2.6% | 1.72% |

The expected life of the conversion feature of the notes and warrants was based on the remaining contractual term of the notes and warrants. The Company uses the historical volatility of its Common Stock to estimate the future volatility for its Common Stock. The expected dividend yield was based on the fact that the Company has not paid dividends in the past and does not expect to pay dividends in the future. The risk-free interest rate was based on rates established by the Federal Reserve Bank. As of December 31, 2017, the Company had recorded a derivative liability of $1,251,000.

During the year ended December 31, 2018, the Company recorded an additional derivative liability totaling $1,877,000 as a result of the issuance of convertible notes and warrants. The Company also extinguished derivative liability of $1,719,000 upon the conversion and payment of outstanding convertible notes payable, which was recorded as part of gain on extinguishment of debt. In addition, the Company also recorded a change in fair value of $1,167,000 to account the change in fair value of these derivative liabilities up to the dates of the extinguishment and at December 31, 2018. At December 31, 2018, the fair value of the derivative liability amounted to $2,576,000. The details of derivative liability transactions during the years ended December 31, 2018 and 2017 are as follows:

| | December 31, 2018 | December 31, 2017 |
|---|---|---|
| Beginning Balance | $ 1,251,000 | $ 1,256,000 |
| Fair value upon issuance of notes payable and warrants | 1,877,000 | - |
| Change in fair value | 1,167,000 | (5,000) |
| Extinguishment | (1,719,000) | - |
| **Ending Balance** | **$ 2,576,000** | **$ 1,251,000** |

## 9. COMMON STOCK

The following were Common Stock transactions during the year ended December 31, 2018:

***Shares Issued from Stock Subscription*** – The Company issued stock subscription to investors. For the year ended December 31, 2018, the Company issued 1,163,938 shares of Common Stock for net proceeds of $2,979,000. The proceeds were used to pay off debt and for operations.

***Shares Issued for Services*** – During the year ended December 31, 2018, the Company issued 319,345 shares of Common Stock to employees and vendors for services rendered with a fair value of $1,545,000. These shares of Common Stock were valued based on market value of the Company's stock price at the date of grant or agreement. Included in these issuances were 300,000 shares of Common Stock with a fair value of $1,539,000 granted to officers and a director of the Company for services rendered.

***Shares Issued from Conversion of Note Payable*** – During the year ended December 31, 2018, the Company issued 1,243,189 shares of Common Stock upon conversion of notes payable and accrued interest. See Notes 4, *Notes Payable*, 5, *Notes Payable – Related Parties*, and 6, *Convertible Notes Payable,* to these audited consolidated financial statements.

***Shares Issued Upon Issuance of Convertible Note*** – In October 2018, the Company granted a note holder 96,667 shares of Common Stock with a fair value of $595,000 as an inducement for the issuance of a note payable. See Note 6, *Convertible Notes Payable,* to these audited consolidated financial statements.

***Shares Issued for Accrued Officer's Salary*** – On March 28, 2018, the Company converted $582,000 of the Chief Executive Officer's accrued salary into 27,148 shares of Common Stock with a fair value of $582,000 at the date of conversion.

***Shares Issued Upon Exercise of Put Option*** – In January and February 2018, the Company provided put notices to Kodiak and issued 203,207 shares of Common Stock in exchange for cash of $1,000,000. See Note 6, *Convertible Notes Payable,* to these audited consolidated financial statements. As part of the put option agreement, the Company also granted Kodiak the prorated warrants to purchase up to 133,333 shares of Common Stock at $3.75 per share.

***Shares Repurchased***. For the year ended December 31, 2018, the Company repurchased 46,666 shares of Common Stock from investors for $20,000.

The following were Common Stock transactions during the year ended December 31, 2017:

***Shares Issued from Stock Subscription*** –For the year ended December 31, 2017, the Company issued 745,476 shares of Common Stock for net proceeds of $796,000. As part of the offering, the Company granted an investor warrants to purchase 6,667 shares of Common Stock. The exercise price of the warrants is $6.00 per share, with an expiration date of May 21, 2019, and fully vested on the grant date.

***Shares Issued for Services*** – For the year ended December 31, 2017, the Company issued 552,029 shares of Common Stock to vendors for services rendered and recorded stock compensation expense of $1,647,000. In addition, the Company granted two of its officers and its lead director a total of 300,000 shares of Common Stock for services rendered since January 1, 2017 through the date of grant in March 2018. Approximately $441,000 has been recognized as part of stock compensation expense related to this award for the year ended December 31, 2017.

***Shares Issued for Preferred Stock*** - During the year ended December 31, 2017, the Company redeemed 630,000 shares of Series A Preferred stock with a value of $630,000 in exchange for 190,800 shares of Common Stock with a fair value of $304,000. See Note 7, *Convertible Series A Preferred Stock*, to these audited consolidated financial statements.

***Shares Issued for Conversion of Debt*** - During the year ended December 31, 2017, the Company issued 68,413 shares of Common Stock with fair value of $182,000, as settlement of a note payable.

***Shares Issued as Part of Put Notice*** – In November 2017, the Company issued a put notice to Kodiak and issued 43,745 shares of Common Stock in exchange for cash of $50,000. In addition, the Company also issued Kodiak the prorated warrants to purchase up to 6,667 shares of Common Stock at an exercise price of $3.75 per share.

***Shares Issued for Accounts Payable*** - The Company amended an agreement with a vendor and issued 26,667 shares of Common Stock as full and final payment to the vendor on accounts payable owed of $30,000. The fair value of the shares was $56,000 at the date of issuance, and as such, the Company recorded a loss on debt extinguishment of $26,000.

***Shares Issued with Note Payable*** – In June 2017, as part of a note issuance, the Company granted the note holder 3,333 shares of Common Stock with a fair value of $13,000.

## 10. STOCK OPTIONS

Effective October 16, 2014, the Company adopted the 2014 Stock Option Plan (the "Plan") under the administration of the board of directors to retain the services of valued key employees and consultants of the Company.

A summary of option activity for the years ended December 31, 2018 and 2017 are presented below.

| | Options | Weighted-Average Exercise Price | Weighted-Average Remaining Contractual Life (Years) | Aggregate Intrinsic Value |
|---|---|---|---|---|
| Outstanding at December 31, 2016 | 702,064 | $ 4.95 | 4.03 | $ - |
| Granted | 880,667 | 2.55 | - | - |
| Forfeited | (126,667) | 2.40 | - | - |
| Exercised | - | - | - | - |
| Outstanding at December 31, 2017 | 1,456,064 | $ 3.90 | 2.09 | $ - |
| Granted | 1,400,418 | 6.75 | - | - |
| Forfeited | (345,000) | 5.85 | - | - |
| Exercised | (32,508) | 1.05 | - | - |
| Outstanding at December 31, 2018 | 2,478,974 | $ 5.25 | 2.93 | $ 2,660,000 |
| | | | | |
| Vested December 31, 2018 | 958,115 | $ 4.35 | | $ 2,039,000 |
| | | | | |
| Exercisable at December 31, 2018 | 753,654 | $ 5.25 | | $ 889,000 |

The following were stock options transactions during the year ended December 31, 2018:

During the year ended December 31, 2018, the Company granted stock options to employees and consultants to purchase a total 1,400,418 shares of Common Stock for services rendered. The options have an average exercise price of $6.75 per share, expire in five years, and vest on the grant date or over a period of four years from the grant date. The total fair value of these options at grant date was approximately $9,712,000 using the Black-Scholes Option Pricing model. The total stock compensation expense recognized relating to the vesting of stock options for the year ended December 31, 2018 amounted to $1,870,000. As of December 31, 2018, the total unrecognized stock-based compensation expense was $6,591,000, which is expected to be recognized as part of operating expense through December 2021.

During the year ended December 31, 2018, options were exercised resulting in the issuance of 32,508 shares of Common Stock. The Company received cash of $34,000 upon exercise of the options.

The following were stock options transactions during the year ended December 31, 2017:

During the year ended December 31, 2017, the Company granted stock options to employees and consultants to purchase a total of 880,667 shares of Common Stock for services rendered. The options have an average exercise price of $2.55 per share, expire in five years, and vest over a period of three years from the grant date. The total fair value of these options at the grant date was approximately $1,781,000 using the Black-Scholes Option Pricing model. The total stock compensation expense recognized relating to vesting of these stock options for the year ended December 31, 2017 amounted to $418,000.

The fair value of the share option awards was estimated using the Black-Scholes method based on the following weighted-average assumptions:

| | Years Ended December 31, | |
|---|---|---|
| | 2018 | 2017 |
| Risk-free interest rate | 2.25%-3.00% | 1.22%-2.23% |
| Average expected term (years) | 5 years | 5 years |
| Expected volatility | 184.45%-190.22% | 84.36%-173.92% |
| Expected dividend yield | - | - |

The risk-free interest rate is based on the U.S. Treasury yield curve in effect at the time of measurement corresponding with the expected term of the share option award; the expected term represents the weighted-average period of time that share option awards granted are expected to be outstanding giving consideration to vesting schedules and historical participant exercise behavior; the expected volatility is based upon historical volatility of the Company's Common Stock; and the expected dividend yield is based on the fact that the Company has not paid dividends in the past and does not expect to pay dividends in the future.

## 11. STOCK WARRANTS

The Company has the following warrants as of December 31, 2018 and 2017 are presented below:

| | Warrants | Weighted-Average Exercise Price | Weighted-Average Remaining Contractual Life (Years) | Aggregate Intrinsic Value |
|---|---|---|---|---|
| Outstanding at December 31, 2016 | 1,230,351 | $ 1.50 | 2.62 | $ - |
| Granted | 665,410 | 2.85 | - | - |
| Forfeited | - | - | - | - |
| Exercised | - | - | - | - |
| Outstanding at December 31, 2017 | 1,895,761 | $ 1.95 | 2.79 | $ - |
| Granted | 386,675 | 5.10 | - | - |
| Forfeited | (56,486) | 1.05 | - | - |
| Exercised | (1,285,538) | 1.80 | - | - |
| Outstanding at December 31, 2018, all vested | 940,412 | $ 3.60 | 2.32 | $ 1,806,000 |

The following were stock warrant transactions during the year ended December 31, 2018:

During the year ended December 31, 2018, 1,285,538 warrants were exercised resulting in the issuance of 1,074,921 shares of Common Stock. The Company received cash of $22,000 upon the exercise of the warrants.

During the year ended December 31, 2018, the Company granted warrants to note holders to purchase a total of 66,667 shares of Common Stock. The warrants are exercisable at an average price of $2.10 per share and will expire in January 2023. Warrants exercisable for an aggregate of 33,333 shares of Common Stock were accounted for as a derivative liability.

On February 21, 2018, the Company granted warrants exercisable for 133,333 shares of Common Stock as part of the exercise of its put option with Kodiak. The exercise price of the warrants is $3.75 per share and the warrants expire on February 20, 2023.

On August 8, 2018, the Company granted warrants exercisable for 163,113 shares of Common Stock in connection with the extension of the maturity date of a secured note payable. See Note 5, *Notes Payable-Related Parties,* to these audited consolidated financial statements.

On December 4, 2018, the Company granted warrants exercisable for 23,562 shares of Common Stock in connection with the extension of the maturity date of a secured note payable. See Note 5, *Notes Payable-Related Parties,* to these audited consolidated financial statements.

The following were stock warrant transactions during the year ended December 31, 2017:

On April 1, 2017, the Company granted warrants to a consultant to purchase 25,000 shares of Common Stock at an exercise price of $1.80 per share. The warrants expire on March 31, 2019 and were fully vested on the grant date. The total share-based compensation expense recognized relating to these warrants for the year ended December 31, 2017 amounted to $27,000.

On May 22, 2017, the Company issued warrants to purchase 6,667 shares of Common Stock as part of an equity offering. The exercise price is $6.00 per share, the warrants expire on May 21, 2019, and were fully vested on grant date.

In May and August 2017, the Company entered into extension agreements with Mr. Cutaia to extend the maturity date of certain secured notes. In consideration for Mr. Cutaia's agreement to extend the maturity dates, the Company granted Mr. Cutaia warrants to purchase up to 205,623 shares of Common Stock, exercisable at $2.25 per share and $5.40 per share, with expiration dates starting in May 2020.

In August 2017, the Company entered into extension agreement with a noteholder to extend the maturity date of note payable. In consideration, the Company granted the note holder warrants to purchase up to 87,787 shares of Common Stock, exercisable at $2.25 per share, with expirations dates starting in August 2020.

From June 2017 through December 2017, the Company issued warrants to note holders to purchase up to 322,000 shares of Common Stock. The warrants are exercisable at an average price of $2.25 per share and will expire starting in June 2020 through December 2022. A total of 80,000 of these warrants were accounted as a derivative liability.

On September 16, 2017, the Company issued warrants to purchase up to 18,333 shares of Common Stock in exchange for full settlement and release of a disputed, unasserted claim. The exercise price was $1.20 per share and expired on March 15, 2018. The warrants were fully vested on grant the date with a fair value of $10,000 which was recorded as part of loss on debt extinguishment.

The total expense recognized relating to the vesting of these stock warrants for the year ended December 31, 2017 amounted to $27,000.

## 12. INCOME TAXES

Significant components of the Company's deferred tax assets and liabilities are as follows:

| | December 31, 2018 | December 31, 2017 |
|---|---|---|
| Net operating loss carry-forwards | $ 5,300,000 | $ 3,464,000 |
| Share based compensation | (524,000) | (704,000) |
| Non-cash interest and financing expenses | (694,000) | (833,000) |
| Other temporary differences | (378,000 | (108,000) |
| Less: Valuation allowance | (3,704,000) | (1,819,000) |
| Deferred tax assets, net | $ - | $ - |

The items accounting for the difference between income taxes computed at the federal statutory rate and the provision for income taxes were as follows:

| | December 31, 2018 | December 31, 2017 |
|---|---|---|
| Statutory federal income tax rate | (21.0)% | (34.0)% |
| State taxes, net of federal benefit | (6.0)% | (5.8)% |
| Non-deductible items | (0.1)% | (0.1)% |
| Change in valuation allowance | 27.9% | 27.9% |
| | 0.0% | 0.0% |

ASC 740 requires that the tax benefit of net operating losses carry forwards be recorded as an asset to the extent that management assesses that realization is "more likely than not." Realization of the future tax benefits is dependent on the Company's ability to generate sufficient taxable income within the carry forward period. Because of the Company's recent history of operating losses, management believes that recognition of the deferred tax assets arising from the above-mentioned future tax benefits is currently not likely to be realized and, accordingly, has provided a 100% valuation allowance against the asset amounts.

Any uncertain tax positions would be related to tax years that remain open and subject to examination by the relevant tax authorities. The Company has no liabilities related to uncertain tax positions or unrecognized benefits as of the year end December 31, 2018 or 2017. The Company has not accrued for interest or penalties associated with unrecognized tax liabilities.

On December 22, 2017, the Tax Cuts and Jobs Act (the "TCJ Act") was enacted into law. The TCJ Act provides for significant changes to the U.S. Internal Revenue Code of 1986, as amended (the "Code"), that impact corporate taxation requirements, such as the reduction of the federal tax rate for corporations from 35% to 21% and changes or limitations to certain tax deductions.

The Company is currently assessing the extensive changes under the TCJ Act and its overall impact on the Company; however, based on its preliminary assessment of the reduction in the federal corporate tax rate from 35% to 21% to become effective on January 1, 2018, the Company currently expects that its effective tax rate for 2018 will be between 20% and 23%. Such estimated range is based on management's current assumptions with respect to, among other things, the Company's earnings, state income tax levels and tax deductions. The Company's actual effective tax rate in 2018 may differ from management's estimate.

As of December 31, 2018, the Company had federal and state net operating loss carry forwards of approximately $12.8 million, which may be available to offset future taxable income for tax purposes. These net operating losses carry forwards begin to expire in 2034. This carry forward may be limited upon the ownership change under IRC Section 382. IRS Section 382 places limitations (the "Section 382 Limitation") on the amount of taxable income which can be offset by net operating loss carry forwards after a change in control (generally greater than 50% change in ownership) of a loss corporation. Generally, after a change in control, a loss corporation cannot deduct operating loss carry forwards in excess of the Section 382 Limitation. Due to these "change in ownership" provisions, utilization of the net operating loss may be subject to an annual limitation regarding their utilization against taxable income in future periods. The Company has not concluded its analysis of Section 382 through December 31, 2018 but believes the provisions will not limit the availability of losses to offset future income.

The Company is subject to income taxes in the U.S. federal jurisdiction and the state of Nevada. The tax regulations within each jurisdiction are subject to interpretation of related tax laws and regulations and require significant judgment to apply. As of December 31, 2018, tax years 2015 through 2017 remain open for IRS audit. The Company has received no notice of audit from the IRS for any of the open tax years.

## 13. ACCRUED OFFICERS' SALARY

Accrued officers' salary consists of unpaid salaries for the Company's Chief Executive Officer, who is also the owner of approximately 27% of the Company's outstanding shares of Common Stock, and the Company's Chief Financial Officer. As of December 31, 2017, accrued officers' salary amounted to $607,000.

The Chief Executive Officer settled accrued payroll of $582,000 in exchange for 27,148 shares of Common Stock with a fair value of $582,000. There was no loss recognized as the fair value of the shares of Common Stock issued approximated the accrued payroll settled.

As of December 31, 2018, accrued officers' salary amounted to $188,000.

## 14. COMMITMENTS AND CONTINGENCIES

***Operating Leases***

The Company leases office space in Los Angeles, California under an operating lease, which provides for monthly rent of $5,000 through July 29, 2019. The Company had total rent expense for the year ended December 31, 2018 and 2017 of $62,000 and $52,000, respectively, which is recorded as part of General and Administrative expenses in the Statement of Operations.

***Employment Agreements***

On November 21, 2014, the Company entered into an executive employment agreement effective November 1, 2014 with Rory J. Cutaia, our president, chief executive officer, secretary and treasurer. Pursuant to the terms of the employment agreement, we have agreed to pay Mr. Cutaia an annual salary of $325,000, which will be increased each year by 10%, subject to the annual review and approval of the board of directors. Notwithstanding the foregoing, a mandatory increase of not less than $100,000 per annum will be implemented on the Company achieving EBITDA break-even. In addition to the base salary, Mr. Cutaia will be eligible to receive an annual bonus in an amount up to $325,000, based upon the attainment of performance targets to be established by the board of directors, in its discretion.

The initial term of the employment agreement is five years, and, upon expiration of the initial five-year term, it may be extended for additional one-year periods on ninety days prior notice.

In the event that: (i) Mr. Cutaia's employment is terminated without cause, (ii) Mr. Cutaia is unable to perform his duties due to a physical or mental condition for a period of 120 consecutive days or an aggregate of 180 days in any 12 month period; or (iii) Mr. Cutaia voluntarily terminates the employment agreement upon the occurrence of a material reduction in his salary or bonus, a reduction in his job title or position, or the required relocation of Mr. Cutaia to an office outside of a 30 mile radius of Los Angeles, California, Mr. Cutaia will:

(a) receive monthly payments of $27,000, or such sum as is equal to Mr. Cutaia's monthly base compensation at the time of such termination, whichever is higher, and

(b) be reimbursed for COBRA health insurance costs, in each case for 36 months from the date of such termination or to the end of the term of the agreement, whichever is longer.

In addition, Mr. Cutaia will have any and all of his unvested stock options immediately vest, with full registration rights; and any unearned and unpaid bonus compensation, expense reimbursement, and all accrued vacation, personal sick days, etc., be deemed earned, vested and paid immediately. As a condition to receiving the foregoing, Mr. Cutaia will be required to execute a release of claims, and a non-competition and non-solicitation agreement having a term which is the same as the term of the monthly severance payments described above.

***Litigation***

On April 24, 2018, EMA, commenced an action against us, styled *EMA Financial, LLC, a New York limited liability company, Plaintiff, against nFUSZ, Inc., Defendant*, United States District Court, Southern District of New York, case number 1:18-cv-03634-NRB. The Complaint sets forth four causes of action and seeks relief consisting of: (1) money damages, (2) injunctive relief, (3) liquidated damages, and (4) declaratory relief. All of the claims stem from our refusal to honor EMA's exercise notice in connection with a common stock purchase warrant that we had granted to it. We believe EMA's allegations are entirely without merit.

The circumstances giving rise to the dispute are as follows: on or about December 5, 2017, we issued a warrant to EMA as part of the consideration we were required to provide in connection with a contemporaneous convertible loan EMA made to us. The loan, which was evidenced by a convertible note, was for a term of one year. Our refusal to honor the warrant exercise notice was due to our good faith belief that EMA's interpretation of the cashless exercise provision of the warrant was, *inter alia*, (1) contrary to our direct conversations and agreements made with EMA prior to, and during the preparation of the loan and warrant agreements; (2) contradictory to the plain language on the face and body of the warrant agreement drafted by EMA; (3) wholly inconsistent with industry norms, standards, and practices; (4) was contrary to the cashless exercise method actually adopted by EMA's co-lender in the same transaction; and (5) was the result of a single letter mistakenly transposed in the cashless exercise formula drafted by EMA which if adopted, would result in a gross and unintended windfall in favor of EMA and adverse to us. Moreover, as set forth in our response to EMA's allegations, EMA's interpretation of the cashless exercise provision would have resulted in it being issued more shares of our Common Stock than it would have received if it exercised the warrant for cash (instead of less), and more than the amount of shares reflected on the face of the warrant agreement itself. The loan underlying the transaction was repaid, in full, approximately three months after it was issued, on March 8, 2018, together with all accrued interest, prior to any conversion or attempted conversion of the note.

On July 20, 2018, we filed an Answer to the Complaint, along with certain Affirmative Defenses, as well as Counterclaims seeking, *inter alia*, to void the entire transaction for violation of New York's criminal usury laws and, alternatively, for reformation of the warrant conversion formula set forth in the Warrant Agreement so as to be consistent with the parties' intent and custom and practice in the industry.

As of December 31, 2018, the parties have undergone depositions and exchanged document production. Discovery was scheduled to end on January 31, 2019. Neither party has requested to extend the discovery period. Notwithstanding the pending action, in December 2018, EMA attempted to exercise the warrant through the Company's transfer agent utilizing the disputed cashless exercise formula. The transfer agent rejected EMA's request and notified the Company who promptly filed a motion for a preliminary injunction to enjoin EMA from making any further attempts to exercise the warrant in this manner during the pendency of the action. The Company is awaiting a decision from the Court on its preliminary injunction motion. As of the date of this Annual Report, the Court has not ruled on our motion. We intend to vigorously defend the action, as well as vigorously prosecute our counterclaims against EMA. The action is still pending.

In August 2014, a former employee and then current stockholder (the "Employee") entered into that certain Executive Employment Agreement (the "Employment Contract") with bBooth, Inc., our predecessor company. Section 3.1 of the Employment Contract provided, among other things, that Employee was employed to serve as our President and reported directly to Rory Cutaia, our Chief Executive Officer. Section 5.2 of Employment Contract provides, among other things, that Employee was entitled to receive a bonus (the "Bonus") from us if certain conditions are met. These specified conditions were never met.

On or about May 15, 2015, Employee ceased employment at the Company. More than eight months later, on or about January 20, 2016, the parties entered into a certain Stock Repurchase Agreement (the "Repurchase Agreement") pursuant to which we purchased all of Employee's shares of Common Stock for a purchase price of $144,000. The Repurchase Agreement also provided, among other things, that Employee released us from all claims, causes of action, suits, and demands (the "Release").

Approximately two years later, in April 2018, at a time when the Company's share price was on the rise, Employee notified us by email that it is Employee's position that on or about May 15, 2015: (1) Employee was terminated "without cause" pursuant to Section 6.2 of the Employment Contract; or (2) Employee terminated employment with Company "for good reason" pursuant to Section 6.3 of the Employment Contract. Employee sought approximately $300,000 in allegedly unpaid bonuses, plus 150,000 options priced at $0.50 per share, which expired prior to exercise. We responded in or about April 2018 that Employee's claims lacked factual and legal merit, including that they are barred by the Release. The lack of response from Employee at that time appeared to indicate Employee's tacit acknowledgment and ratification of our rationale underpinning our denial of Employee's claims. Approximately eight (8) months later in December 2018, Employee resurfaced, renewing his claims. We responded by reminding Employee we consider his claims to be without merit, and that, in any event, they are barred by the Release. In our view, the Release set forth in the Repurchase Agreement coupled with the existing merger or integration clause likely shields the Company from liability, even assuming, arguendo, that the claims could be supported by credible evidence.

We know of no other material pending legal proceedings to which we or any of our subsidiaries is a party or to which any of our assets or properties, or the assets or properties of any of our subsidiaries, are subject and, to the best of our knowledge, no adverse legal activity is anticipated or threatened. In addition, we do not know of any such proceedings contemplated by any governmental authorities.

We know of no material proceedings in which any of our directors, officers, or affiliates, or any registered or beneficial stockholder is a party adverse to us or any of our subsidiaries or has a material interest adverse to us or any of our subsidiaries.

***Board of Directors***

The Company has committed an aggregate of $270,000 in board fees to its three board members commencing on the date the Company is listed on the NASDAQ. The members will serve on the board until the annual meeting for the year in which their term expires or until their successors has been elected and qualified.

## 15. SUBSEQUENT EVENTS

Merger Agreement

On November 8, 2018, we entered into an Agreement and Plan of Merger (the "Merger Agreement"), by and among Sound Concepts, Inc., a Utah corporation ("Sound Concepts"), NF Merger Sub, Inc., a Utah corporation ("Merger Sub 1"), NF Acquisition Company, LLC, a Utah limited liability company ("Merger Sub 2"), the shareholders of Sound Concepts (the "Sound Concepts Shareholders"), the shareholders' representative (the "Shareholder Representative"), and us, pursuant to which we will acquire Sound Concepts (the "Sound Concepts Acquisition") through a two-step merger, consisting of merging Merger 1 Sub with and into Sound Concepts, with Sound Concepts surviving the "first step" of the merger as our wholly-owned subsidiary (and the separate corporate existence of Merger Sub 1 will cease) and, immediately thereafter, merging Sound Concepts with and into Merger Sub 2, with Merger Sub 2 surviving the "second step" of the merger, such that, upon the conclusion of the "second step" of the merger, the separate corporate existence of Sound Concepts will cease and Merger Sub 2 will continue its limited liability company existence under Utah law as the surviving entity and as our wholly-owned subsidiary (collectively, the "Merger"). On the terms and subject to the conditions set forth in the Merger Agreement, at the effective time of the Merger (the "Effective Time"), each share of Sound Concepts' capital stock issued and outstanding immediately prior to the Effective Time (the "Sound Concepts Capital Stock") will be cancelled and converted into the right to receive a proportionate share of $25,000,000 of value (the "Closing Merger Consideration"), to be payable through a combination of a cash payment by us of $15,000,000 (the "Acquisition Cash Payment") and the issuance of shares of our Common Stock with a fair market value of $10,000,000 (the "Acquisition Stock"). The Closing Merger Consideration is not subject to any closing working capital adjustment or post-closing working capital adjustment. We expect the Sound Concepts Acquisition to close in the first quarter of 2019. However, we cannot provide any assurance as to the actual timing of completion of the Sound Concepts Acquisition, or whether the Sound Concepts Acquisition will be completed at all.

Issuances of Stock Options

On January 8, 2019, the Company granted stock options to an officer to purchase a total of 16,667 shares of Common Stock pursuant to the officer's employment agreement. The options have an exercise price of $4.35 per share, and expire in five years. The options vested 50% on the grant date and the remaining 50% will vest on the 12-month anniversary of the grant date. Total fair value of these options at grant date was $70,000 using the Black-Scholes option pricing model.

On January 28, 2019, the Company granted stock options to consultants to purchase a total of 1,667 shares of Common Stock for services to be rendered. The options have an average exercise price of $7.80 per share, expire in five years and vest in sixty days. The total fair value of these options at the grant date was $13,000 using the Black-Scholes option pricing model.

Exercise of Warrants

On January 25, 2019, a total of 161,969 warrants were exercised on a cashless basis for 141,512 shares of Common Stock at a weighted average exercise price of $1.05 per share.

Name-Change Merger

Effective February 1, 2019, we changed our corporate name from nFüsz, Inc. to Verb Technology Company, Inc. The name change was effected through a parent/subsidiary short-form merger of Verb Technology Company, Inc., our wholly-owned Nevada subsidiary, formed solely for the purpose of the name change, with and into us. We were the surviving entity. To effectuate the name-change merger, we filed Articles of Merger with the Secretary of State of the State of Nevada on January 31, 2019. The name-change merger became effective on February 1, 2019. Our board of directors approved the name-change merger, which resulted in the name change on that date. In accordance with Section 92A.180 of the NRS, stockholder approval of the name-merger was not required.

Reverse Stock Split

On February 1, 2019, we implemented a 1-for-15 Reverse Stock Split of our Common Stock. The Reverse Stock Split became effective upon commencement of trading of our Common Stock on February 4, 2019. As a result of the Reverse Stock Split, every fifteen (15) shares of our pre-Reverse Stock Split Common Stock were combined and reclassified into one share of our Common Stock. The number of shares of Common Stock subject to outstanding options, warrants, and convertible securities were also reduced by a factor of fifteen as of February 1, 2019. All historical share and per share amounts reflected throughout our consolidated financial statements and other financial information in this Annual Report have been adjusted to reflect the Reverse Stock Split as if the split occurred as of the earliest period presented. The par value per share of our Common Stock was not affected by the Reverse Stock Split.

Issuance of Convertible Note

On February 1, 2019, the Company issued an unsecured convertible note to Bellridge, an unaffiliated third-party entity, in the aggregate principal amount of $500,000 in exchange for net proceeds of $432,000, representing an original issue discount of $25,000 and paid legal and financing expenses of $43,000. In addition, the Company issued 16,667 shares of its Common Stock with an estimated fair value of $128,000. The note contained a mandatory conversion feature in case of default based upon a discounted VWAP. Furthermore, the note also contained a provision that will require the Company to pay the noteholder an additional $25,000 and issue 8,600 shares of Common Stock if the note is not be paid within 60 days after its issuance. The Company is currently in the process determining the appropriate accounting for this promissory note. The note matures in August 2019.

## ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

## ITEM 9A. CONTROLS AND PROCEDURES

**Evaluation of Disclosure Controls and Procedures**

We maintain disclosure controls and procedures as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, that are designed to ensure that information required to be disclosed in our reports under the Exchange Act, is recorded, processed, summarized, and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to our management, including our principal executive officer and our principal financial officer, as appropriate, to allow timely decisions regarding required disclosure.

We carried out an evaluation under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, of the effectiveness of our disclosure controls and procedures (as defined in Rule 13a-15(e) and 15d- 15(e) under the Exchange Act) as of the year ended December 31, 2018. Based on this evaluation, our principal executive officer and principal financial officer concluded that our disclosure controls and procedures were not effective as of December 31, 2018.

**Management's Annual Report on Internal Control over Financial Reporting**

Our management is responsible for establishing and maintaining adequate internal control over our financial reporting (as defined in Rule 13a-15(f) under the Exchange Act). Internal control over financial reporting is a process, including policies and procedures, designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external reporting purposes in accordance with U.S. generally accepted accounting principles. Our management assessed our internal control over financial reporting using the criteria in Internal Control — Integrated Framework (2013), issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO"). Our system of internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements.

Based on our evaluation under the framework in COSO, our management concluded that our internal controls over financial reporting were ineffective as of December 31, 2018 based on such criteria. Deficiencies existed in the design or operation of our internal controls over financial reporting that adversely affected our internal controls and that may be considered to be material weaknesses. The matters involving internal controls and procedures that our management considered to be material weaknesses were:

(i) inadequate segregation of duties and effective risk assessment; and

(ii) insufficient staffing resources resulting in financial statement closing process.

The weaknesses and the related risks are not uncommon in a company of our size because of the limitations in the size and number of staff. To address these material weaknesses, our Chief Financial Officer performed additional analyses and other procedures, including the retention of qualified accounting professionals and the employment of a Controller in September 2018 to assist with the preparation of our financial statements, to ensure that the financial statements included herein fairly present, in all material respects, our financial position, results of operations, and cash flows for the periods presented. Accordingly, we believe that the financial statements included in this report fairly present, in all material respects, our financial condition, results of operations, and cash flows for the periods presented.

Subject to the receipt of additional financing, we intend to undertake additional remediation measures to address the material weaknesses described in this Annual Report. Such remediation activities include the following:

(i) we intend to update the documentation of our internal control processes, including formal risk assessment of our financial reporting processes; and

(ii) we intend to implement procedures pursuant to which we can ensure segregation of duties and hire additional resources to ensure appropriate review and oversight.

A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met under all potential conditions, regardless of how remote, and may not prevent or detect all errors and all fraud. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues, if any, within the Company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of a simple error or mistake. Our internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles.

**Auditor's Report on Internal Control Over Financial Reporting**

This Annual Report does not include an attestation report of our independent registered public accounting firm regarding internal control over financial reporting. Management's report was not subject to attestation by our independent registered public accounting firm pursuant to the rules of the SEC that permit us to provide only management's report in this Annual Report.

**Changes in Internal Control over Financial Reporting**

There were no changes in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the year ended December 31, 2018 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

## ITEM 9B. OTHER INFORMATION

Name-Change Merger and Reverse Stock Split

Effective February 1, 2019, we changed our corporate name from nFüsz, Inc. to Verb Technology Company, Inc. The name change was effected through a parent/subsidiary short-form merger of Verb Technology Company, Inc., our wholly-owned Nevada subsidiary, formed solely for the purpose of the name change, with and into us. We were the surviving entity. To effectuate the name-change merger, we filed Articles of Merger with the Secretary of State of the State of Nevada on January 31, 2019. The name-change merger became effective on February 1, 2019. Our board of directors approved the name-change merger, which resulted in the name change on that date. In accordance with Section 92A.180 of the NRS, stockholder approval of the name-merger was not required.

On the effective date of the merger, our name was changed to "Verb Technology Company, Inc." and our Articles of Incorporation were further amended to reflect our new legal name. With the exception of the name change, there were no other changes to our Articles of Incorporation. The merger and resulting name change do not affect the rights of our security holders. A copy of the Articles of Merger we filed with the Secretary of State of the State is being filed herewith as Exhibit 3.8.

On February 1, 2019, we implemented a 1-for-15 Reverse Stock Split of our Common Stock. The Reverse Stock Split became effective upon commencement of trading of our Common Stock on February 4, 2019. As a result of the Reverse Stock Split, every fifteen (15) shares of our Pre-Reverse Stock Split Common Stock were combined and reclassified into one share of our Common Stock. As a result of the Reverse Stock Split, stockholders of record as of January 31, 2019 will receive one share for every fifteen shares of our Common Stock then held. The par value and other terms of our Common Stock will not be affected by the Reverse Stock Split. Any fractional shares of our Common Stock resulting from the Reverse Stock Split for any holder will be rounded up to the next whole share. No fractional shares will be issued in connection with the Reverse Stock Split.

Following the effectiveness of the merger, resulting name change, and the Reverse Stock Split our securities will continue to be quoted on the OTCQB under the symbol "FUSZD;" however, effective February 4, 2019, our new CUSIP number is 92337U104. Following the name change and the Reverse Stock Split, the stock certificates, which reflect our prior corporate name, will continue to be valid. Certificates reflecting the new corporate name will be issued in due course as old stock certificates are tendered for exchange or transfer to our transfer agent.

Convertible Note Issuance:

On February 1, 2019, the Company issued an unsecured convertible note to Bellridge, an unaffiliated third-party entity, in the aggregate principal amount of $500,000 in exchange for net proceeds of $432,000, representing an original issue discount of $25,000 and paid legal and financing expenses of $43,000. In addition, the Company issued 16,667 shares of its Common Stock with an estimated fair value of $128,000. The note contained a mandatory conversion feature in case of default based upon a discounted VWAP. Furthermore, the note also contained a provision that will require the Company to pay the noteholder an additional $25,000 and issue 8,600 shares of Common Stock if the note is not be paid within 60 days after its issuance. The Company is currently in the process determining the appropriate accounting for this promissory note. The note matures in August 2019.

# PART III

## ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

**Directors and Executive Officers**

Each of our directors holds office until the next annual meeting of our stockholders or until his successor has been elected and qualified, or until his death, resignation, or removal. Our executive officers are appointed by our board of directors and hold office until their death, resignation, or removal from office.

Our directors and executive officers, their ages, positions held, and duration of such, are as follows:

| Name | Position Held with Our Company | Age | Date First Elected or Appointed |
|---|---|---|---|
| Rory J. Cutaia | Chairman, President, Chief Executive Officer, Secretary, Treasurer and Director | 62 | October 16, 2014 |
| Jeffrey R. Clayborne | Chief Financial Officer | 47 | July 15, 2016 |
| Chad J. Thomas | Chief Technology Officer | 47 | October 12, 2018 |
| James P. Geiskopf | Director | 59 | October 16, 2014 |
| Philip J. Bond | Director | 62 | September 10, 2018 |
| Kenneth S. Cragun | Director | 57 | September 10, 2018 |

**Business Experience**

The following is a brief account of the education and business experience of directors and executive officers during at least the past five years, indicating their principal occupation during the period, the name and principal business of the organization by which they were employed, and certain of their other directorships:

*Rory J. Cutaia, Chairman of the Board, President, Chief Executive Officer, Secretary, and Treasurer*

Rory J. Cutaia has been our Chairman of the Board, Chief Executive Officer, President, Secretary, and Treasurer since the formation of CMG, in which roles he has continued to serve through our October 2014 acquisition of bBooth USA to current. Mr. Cutaia founded CMG in 2012 and bBooth, Inc. in 2014. In May 2014, CMG and bBooth, Inc. merged and became known as bBoothUSA, which entity was acquired in October 2014 by GSD, our predecessor. Prior to that, from October 2006 to August 2011, he was a partner and *Entrepreneur-in-Residence* at Corinthian Capital Group, Inc. ("Corinthian"), a private equity fund based in New York City that invested in middle-market, U.S. based companies. During his tenure at Corinthian, from June 2008 to October 2011, he was the co-founder and Executive Chairman of Allied Fiber, Inc., a company engaged in the construction of a nation-wide fiber-optic network, and from June 2007 to August 2011, Mr. Cutaia was the Chief Executive Officer of GreenFields Coal Company, a company engaged in the deployment of technology to recycle coal waste and clean-up coal waste sites. Before joining Corinthian, from January 2000 to October 2006, he founded and was the Chairman and Chief Executive Officer of The Telx Group, Inc. ("Telx"), a company engaged in the telecom carrier inter-connection, co-location, and data center business, which he sold in 2006. Before founding Telx, he was a practicing lawyer with Shea & Gould, a prominent New York City law firm. Mr. Cutaia obtained his Juris Doctorate degree from the Fordham University School of Law in 1985 and his Bachelor of Science, *magna cum laude*, in business management from the New York Institute of Technology in 1982. We believe that Mr. Cutaia is qualified to serve on our board of directors because of his knowledge of our current operations, in addition to his education and business experiences described above.

*Jeffrey R. Clayborne, Chief Financial Officer*

Jeffrey R. Clayborne has been our Chief Financial Officer since July 15, 2016. Mr. Clayborne is an experienced finance professional with an entrepreneurial spirit and proven record of driving growth and profit for both Fortune 50 companies, as well as start-up companies. Prior to joining the Company, Mr. Clayborne served as Chief Financial Officer and a consultant with Breath Life Healing Center from August 2015 to July 2016. From September 2014 to August 2015, he served as Vice President of Business Development of Incroud, Inc and from May 2012 to September 2014, Mr. Clayborne served as President of Blast Music, LLC. Prior to this, Mr. Clayborne was employed by Universal Music Group where he served as Vice President, Head of Finance & Business Development for Fontana, where he managed the financial planning and analysis of the sales and marketing division and led the business development department. He also served in senior finance positions at The Walt Disney Company, including Senior Finance Manager at Walt Disney International, where he oversaw financial planning and analysis for the organization in 37 countries. Mr. Clayborne began his career as a CPA at McGladrey & Pullen LLP (now, RSM US LLP), then at KPMG Peat Marwick (now, KPMG). He brings with him more than 20 years of experience in all aspects of strategy, finance, business development, negotiation, and accounting. Mr. Clayborne earned his Master of Business Administration degree from the University of Southern California, with high honors.

*Chad J. Thomas, Chief Technology Officer*

Chad J. Thomas was appointed as our Chief Technology Officer on October 12, 2018. Mr. Thomas has extensive engineering, technology, programming, and software development experience, and a proven track record of innovation and building for scale. From January 2017 to September 2018, he served as the Chief Technology Officer of Swarm Engineering, where he created the technology to allow edge IoT devices to work in a swarm to solve problems in a traditional cloud-based analytics architecture. From October 2014 to January 2017, Mr. Thomas co-founded, and served as the Chief Technology Officer of LifeSpeed, Inc., a revolutionary health and wellness platform that allows families, medical professionals, and caretakers to store and share medical history data safely and participate in clinical trials. From May 2012 to October 2014, he was a System Architect at English First Shanghai China. Prior to that Mr. Thomas was employed as an architect, designer, and coder of MySpace, where he built the platform that accommodated rapid global growth for millions of users. Mr. Thomas began his career as an Airborne Ranger. Mr. Thomas studied electrical engineering at the University of Nebraska, graduating in 1994, and earned an M.S. in electrical engineering and computer science from Massachusetts Institute of Technology in 1997.

*James P. Geiskopf, Director*

James P. Geiskopf has been one of our directors since the formation of bBooth USA, in which role he has continued to serve through our October 2014 acquisition of bBooth USA by GSD, our predecessor, to current. He also serves as our Lead Director. Mr. Geiskopf has 32 years of experience leading companies in the services industry. From 1975 to 1986, Mr. Geiskopf served as the Chief Financial Officer of Budget Rent a Car of Fairfield California and from 1986 to 2007, he served as its President and Chief Executive Officer. In 2007, he sold the franchise. Mr. Geiskopf served on the Board of Directors of Suisun Valley Bank from 1986 to 1993 and also served on the Board of Directors of Napa Valley Bancorp from 1991 to 1993, which was sold to a larger institution in 1993. Since 2014, Mr. Geiskopf has served on the board of directors of ICOX Innovations, Inc., a public company quoted on the OTC Markets Group Inc.'s OTCPK tier. From June 2013 to March 16, 2017, the date of his resignation, Mr. Geiskopf had served as a director of Electronic Cigarettes International Group, Ltd., a Nevada corporation, whose common stock had been quoted on the over-the-counter market ("ECIG"). ECIG filed a voluntary petition for relief under the provisions of Chapter 7 of Title 11 of the United States Code on March 16, 2017.

Mr. Geiskopf has significant and lengthy business experience including building, operating, and selling companies, serving on the boards of directors for several banks, and serving as a director and officer of several public companies. In these roles he acquired substantial business management, strategic, operational, human resource, financial, disclosure, compliance, and corporate governance skills. These were the primary reasons that we concluded that he should serve as one of our directors.

*Philip J. Bond, Director*

Philip J. Bond was appointed as one of our directors effective September 10, 2018. On the same date, he was appointed as Chairman of the Governance and Nominating Committee and to serve on the Audit, Compensation, and Governance and Nominating Committees. In 2018, Mr. Bond co-founded Potomac International Partners, Inc., a multidisciplinary consulting firm and currently serves as its President of Government Affairs. In 2009, TechAmerica, a U.S.-based technology trade association, was formed from the merger of AeA, the Cyber Security Industry Alliance, the Government Electronics & Information Technology Association, and the Information Technology Association of America. Mr. Bond was appointed as the President of TechAmerica at the date of the merger, and later, in 2010, was appointed as its Chief Executive Officer. Prior to the merger, Mr. Bond served as the President and Chief Executive Officer of Information Technology Association of America from 2006 to 2008. From 2001 to 2005, Mr. Bond served as Undersecretary of Technology in the U.S. Department of Commerce for Technology. From 2002 to 2003, Mr. Bond served concurrently as Chief of Staff to Commerce Secretary Donald Evans. In his dual role, he worked closely with Secretary Evans to increase market access for U.S. goods and services and further advance America's technological leadership at home and abroad. Mr. Bond oversaw the operations of the National Institute of Standards and Technology (NIST), the Office of Technology Policy, and the National Technical Information Service. During his tenure, the Technology Administration was the pre-eminent portal between the federal government and the U.S. technology. Earlier in his career, Mr. Bond served as Senior Vice President of Government Relations for Monster Worldwide, the world's largest online career site, and General Manager of Monster Government Solutions. Mr. Bond also served as Director of Federal Public Policy for the Hewlett-Packard Company; Senior Vice President for Government Affairs and Treasurer of the Information Technology Industry Council; as Chief of Staff to the late Congresswoman Jennifer Dunn (R-WA); Principal Deputy Assistant Secretary of Defense for Legislative Affairs; Chief of Staff and Rules Committee Associate for Congressman Bob McEwen (R-OH); and as Special Assistant to the Secretary of Defense for Legislative Affairs. Mr. Bond is a graduate of Linfield College in Oregon and now serves on the school's board of trustees.

Mr. Bond has extensive experience in Washington D.C., where he is recognized for his leadership roles in the Executive branch of the government of the United States, at major high technology companies, and most recently as the Chief Executive Officer of TechAmerica, the largest technology advocacy association in the United States. Mr. Bond's unique leadership experience and expertise in Government Relations, were the primary reasons that we concluded that he should serve as one of our directors.

*Kenneth S. Cragun, Director*

Kenneth S. Cragun was appointed as one of our directors effective September 10, 2018. On the same date, he was appointed as Chairman of the Audit Committee, and to serve on the Compensation and Governance and Nominating Committees. Since October 2018, Mr. Cragun has served as the Chief Accounting Officer of DPW Holdings, Inc., a diversified holding company, and since January 2019, as the Chief Financial Officer and Treasurer for Alzamend Neuro, Inc., a biopharma company. Mr. Cragun also serves as a partner of Hardesty, LLC, a national executive services firm. He has been a partner of its Southern California Practice since October 2016. From January 2018 to September 2018, Mr. Cragun served as the Chief Financial Officer of CorVel Corporation ("CorVel"). CorVel is an Irvine, California-based national provider of workers' compensation solutions for employers, third-party administrators, insurance companies, and government agencies. Mr. Cragun is a two-time finalist for the Orange County Business Journal's "CFO of the Year – Public Companies" and has more than 30 years of experience, primarily in the technology industry. He served as Chief Financial Officer of two NASDAQ-listed companies: Local Corporation (April 2009 to September 2016), formerly based in Irvine, California, which operated a U.S. top 100 website "Local.com" and, in June 2015, filed a voluntary petition in the United States Bankruptcy Court for the Central District of California seeking relief under the provisions of Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"), and Modtech Holdings, Inc. (June 2006 to March 2009), formerly based in Perris, California and, in October 2008, filed a voluntary petition in the United States Bankruptcy Court for the Central District of California seeking relief under the provisions of Chapter 11 of the Bankruptcy Code. Mr. Cragun received his B.S. in Accounting from Colorado State University-Pueblo.

Mr. Cragun's industry experience is vast with extensive experience in fast-growth environments and building teams in more than 20 countries. Mr. Cragun has led multiple financing transactions, including IPOs, PIPEs, convertible debt, term loans, and lines of credit. For these reasons, we believe that he will provide additional breadth and depth to our board of directors.

**Family Relationships**

There are no family relationships among any of our directors or executive officers.

**Significant Employees**

We do not currently have any significant employees other than our executive officers. However, the Merger Agreement contemplates that McKinley Oswald, Jason Matheny, Colby Allen, and JJ Oswald (each, a "key employee") will be employed by us following the closing of the Sound Concepts Acquisition under terms and conditions to be agreed upon prior to closing and as set forth in employment agreements entered into with each key employee. The following is a brief overview of each key employee's biographical information.

***McKinley J. Oswald, Chief Executive Officer of Sound Concepts***

McKinley J. Oswald, age 43, has served as the Chief Executive Officer of Sound Concepts since 2014. His full-time contributions at Sound Concepts began after graduating from the University of Utah in 1998. In 2001, Mr. Oswald and his partners purchased Sound Concepts, and over the past 17 years have introduced numerous innovations that significantly expanded the company's offerings and revenue generation capabilities, including the development of the Brightools platform. Mr. Oswald has been principally responsible for establishing the culture and direction of Sound Concepts and has helped position Sound Concepts at the forefront of the industry by securing customer relationships with many of the leading direct sales, network marketing, and affiliate marketing companies, and partnerships with industry experts.

***Jason Matheny, Chief Technology Officer of Sound Concepts***

Jason R. Matheny, age 48, has served as Sound Concepts' Chief Technology Officer since 2014. After graduating with a bachelor's degree in accounting from the University of Utah, he went on to obtain his MBA from Brigham Young University. Coupling his education with his versatility has allowed him to take on a variety of responsibilities during his more than 25 years at Sound Concepts. Since Mr. Matheny and his partners purchased Sound Concepts in 2001, he has served in a variety of roles, including Chief Financial Officer. Currently, Mr. Matheny oversees all aspects of the company's technology team, having played an instrumental role in launching the digital Brightools platform and leading the Brightools team in doubling its growth each of the last two years.

***Colby Allen, Chief Operations Officer of Sound Concepts***

Colby Allen, age 44, has served as the Chief Operating Officer of Sound Concepts since 2014. Previously, Mr. Allen served its Chief Sales Officer. During the course of his career, Mr. Allen has utilized his skill set to focus on the creation of online and offline tools that help companies more effectively communicate their value proposition. Mr. Allen has overseen the integration of the Brightools platform with Sound Concepts' on-demand marketing and sample delivery tools. His experience has helped improve virtually every aspect of Sound Concepts' operations and ensured that Sound Concepts' digital tools and physical operations operate synergistically. Mr. Allen earned a Bachelor of Science degree in Business Marketing from the University of Phoenix (magna cum laude).

***JJ Oswald, Chief Sales Officer of Sound Concepts***

JJ Oswald, age 41, is the Chief Sales Officer of Sound Concepts, a position he has held since 2014. Prior to joining Sound Concepts, Mr. Oswald owned an event rental company, and assisted in growing revenues by 400% before eventually selling the company. He joined the Sound Concepts team in 2007 and brought with him a wide array of sales experience with a focus on developing and maintaining robust and mutually beneficial relationships with clients. Mr. Oswald has played a key role in the design of many of the sales tools contained within the Brightools platform. These tools have proven instrumental in driving significant revenue increases and the overall growth and adoption of the Brightools platform.

**Involvement in Certain Legal Proceedings**

Other than the matters listed above with respect to Messrs. Geiskopf and Cragun, none of our directors and executive officers has been involved in any of the following events during the past ten years:

(a) any petition under the federal bankruptcy laws or any state insolvency laws filed by or against, or an appointment of a receiver, fiscal agent or similar officer by a court for the business or property of such person, or any partnership in which such person was a general partner at or within two years before the time of such filing, or any corporation or business association of which such person was an executive officer at or within two years before the time of such filing;

(b) any conviction in a criminal proceeding or being subject to a pending criminal proceeding (excluding traffic violations and other minor offenses);

(c) being subject to any order, judgment, or decree, not subsequently reversed, suspended or vacated, of any court of competent jurisdiction, permanently or temporarily enjoining such person from, or otherwise limiting, the following activities: (i) acting as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, floor broker, leverage transaction merchant, any other person regulated by the Commodity Futures Trading Commission, or an associated person of any of the foregoing, or as an investment adviser, underwriter, broker or dealer in securities, or as an affiliated person, director or employee of any investment company, bank, savings and loan association, or insurance company, or engaging in or continuing any conduct or practice in connection with such activity; engaging in any type of business practice; or (ii) engaging in any activity in connection with the purchase or sale of any security or commodity or in connection with any violation of federal or state securities laws or federal commodities laws;

(d) being the subject of any order, judgment or decree, not subsequently reversed, suspended or vacated, of any federal or state authority barring, suspending or otherwise limiting for more than 60 days the right of such person to engage in any activity described in paragraph (c)(i) above, or to be associated with persons engaged in any such activity;

(e) being found by a court of competent jurisdiction (in a civil action), the SEC to have violated a federal or state securities or commodities law, and the judgment in such civil action or finding by the SEC has not been reversed, suspended, or vacated;

(f) being found by a court of competent jurisdiction in a civil action or by the Commodity Futures Trading Commission to have violated any federal commodities law, and the judgment in such civil action or finding by the Commodity Futures Trading Commission has not been subsequently reversed, suspended or vacated;

(g) being the subject of, or a party to, any federal or state judicial or administrative order, judgment, decree, or finding, not subsequently reversed, suspended or vacated, relating to an alleged violation of: (i) any federal or state securities or commodities law or regulation; or (ii) any law or regulation respecting financial institutions or insurance companies including, but not limited to, a temporary or permanent injunction, order of disgorgement or restitution, civil money penalty or temporary or permanent cease- and-desist order, or removal or prohibition order; or (iii) any law or regulation prohibiting mail or wire fraud or fraud in connection with any business entity; or

(h) being the subject of, or a party to, any sanction or order, not subsequently reversed, suspended or vacated, of any self-regulatory organization (as defined in Section 3(a)(26) of the Exchange Act), any registered entity (as defined in Section 1(a)(29) of the Commodity Exchange Act), or any equivalent exchange, association, entity, or organization that has disciplinary authority over its members or persons associated with a member.

**Section 16(a) Beneficial Ownership Reporting Compliance**

Section 16(a) of the Exchange Act requires our officers and directors and persons who own more than 10% of the outstanding shares of our Common Stock to file reports of ownership and changes in ownership concerning their shares of our Common Stock with the SEC and to furnish us with copies of all Section 16(a) forms they file. We are required to disclose delinquent filings of reports by such persons.

Based solely on the copies of such reports and amendments thereto received by us, or written representations that no filings were required, we believe that all Section 16(a) filing requirements applicable to our executive officers and directors and 10% stockholders were met for the year ended December 31, 2018.

**Corporate Governance**

*Code of Ethics*

In 2014, our board of directors approved and adopted a Code of Ethics and Business Conduct for Directors, Senior Officers, and Employees (the "Code of Ethics") that applies to all of our directors, officers, and employees, including our principal executive officer and principal financial officer. The Code of Ethics addresses such individuals' conduct with respect to, among other things, conflicts of interests; compliance with applicable laws, rules, and regulations; full, fair, accurate, timely, and understandable disclosure by us; competition and fair dealing; corporate opportunities; confidentiality; protection and proper use of our assets; and reporting suspected illegal or unethical behavior. The Code of Ethics is available on our website at https://myverb.com/code-of-ethics/.

*Audit Committee and Audit Committee Financial Expert*

On August 14, 2018, the board of directors amended and restated the audit committee charter (the "Audit Committee Charter") to govern the Audit Committee. Currently, Messrs. Geiskopf, Bond, and Cragun (Chairman) serve on the Audit Committee and each meets the independence requirements of NASDAQ and the SEC. Mr. Cragun qualifies as an "audit committee financial expert."

The Audit Committee Charter requires that each member of the Audit Committee meet the independence requirements of NASDAQ and the SEC and requires the Audit Committee to have at least one member that qualifies as an "audit committee financial expert." In addition to the enumerated responsibilities of the Audit Committee in the Audit Committee Charter, the primary function of the Audit Committee is to assist the board of directors in its general oversight of our accounting and financial reporting processes, audits of our financial statements, and internal control and audit functions. The Audit Committee Charter can be found online at https://myverb.com/audit-committee-charter/.

*Compensation Committee*

On August 14, 2018, the board of directors approved and adopted a charter (the "Compensation Committee Charter") to govern the Compensation Committee. Currently, Messrs. Geiskopf (Chairman), Bond, and Cragun serve as members of the Compensation Committee and each meets the independence requirements of NASDAQ and the SEC, qualifies as a "non-employee director" within the meaning of Rule 16b-3 under the Exchange Act, and qualifies as an outside director within the meaning of Section 162(m) of the Internal Revenue Code of 1986, as amended. In addition to the enumerated responsibilities of the Compensation Committee in the Compensation Committee Charter, the primary function of the Compensation Committee is to oversee the compensation of our executives, produce an annual report on executive compensation for inclusion in our proxy statement, if and when required by applicable laws or regulations, and advise the board of directors on the adoption of policies that govern our compensation programs. The Compensation Committee Charter may be found online at https://myverb.com/compensation-committee-charter/.

*Governance and Nominating Committee*

On August 14, 2018, the board of directors approved and adopted a charter (the "Nominating Committee Charter") to govern the Governance and Nominating Committee (the "Nominating Committee"). Currently, Messrs. Geiskopf, Bond (Chairman), and Cragun serve as members of the Nominating Committee and each meets the independence requirements of NASDAQ and the SEC. The Nominating Committee Charter requires that each member of the Nominating Committee meets the independence requirements of NASDAQ and the SEC. In addition to the enumerated responsibilities of the Nominating Committee in the Nominating Committee Charter, the primary function of the Nominating Committee is to determine the slate of director nominees for election to the board of directors, to identify and recommend candidates to fill vacancies occurring between annual stockholder meetings, to review our policies and programs that relate to matters of corporate responsibility, including public issues of significance to us and our stockholders, and any other related matters required by federal securities laws. The charter of the Nominating Committee may be found online https://myverb.com/governance-and-nominating-committee-charter/.

*Compensation Committee Interlocks and Insider Participation*

No interlocking relationship exists between our board of directors and the board of directors or compensation committee of any other company, nor has any interlocking relationship existed in the past.

*Orientation and Continuing Education*

We have an informal process to orient and educate new directors to the board regarding their role on the board, our committees and our directors, as well as the nature and operations of our business. This process provides for an orientation with key members of the management staff, and further provides access to materials necessary to inform them of the information required to carry out their responsibilities as a board member. This information includes the most recent board approved budget, the most recent annual report, copies of the audited financial statements and copies of the interim quarterly financial statements.

The board does not provide continuing education for its directors. Each director is responsible to maintain the skills and knowledge necessary to meet his obligations as a director.

*Nomination of Directors*

As of February 1, 2019, we had not effected any material changes to the procedures by which our stockholders may recommend nominees to our board of directors. Our board of directors does not have a policy with regards to the consideration of any director candidates recommended by our stockholders. Our board of directors has determined that it is in the best position to evaluate our requirements as well as the qualifications of each candidate when the board considers a nominee for a position on our board of directors. Accordingly, we do not currently have any specific or minimum criteria for the election of nominees to our board of directors and we do not have any specific process or procedure for evaluating such nominees. Our board of directors assesses all candidates, whether submitted by management or stockholders, and makes recommendations for election or appointment. If stockholders wish to recommend candidates directly to our board, they may do so by sending communications to our president at the address on the cover page of this Annual Report. If stockholders wish to recommend candidates directly to our board, they may do so by sending communications to the president of our company at the address on the cover of this annual report.

*Other Board Committees*

Other than our audit committee, compensation committee, and governance and nominating committee, we have no committees of our board of directors. We do not have any defined policy or procedure requirements for our stockholders to submit recommendations or nominations for directors.

*Assessments*

The board intends that individual director assessments be conducted by other directors, taking into account each director's contributions at board meetings, service on committees, experience base, and their general ability to contribute to one or more of our major needs. However, due to our stage of development and our need to deal with other urgent priorities, the board has not yet implemented such a process of assessment.

## ITEM 11. EXECUTIVE COMPENSATION

**Summary Compensation**

The following table sets forth certain compensation awarded to, earned by, or paid to the following "named executive officers," which is defined as follows:

(a) all individuals serving as our principal executive officer during the year ended December 31, 2018;

(b) each of our two most highly compensated executive officers who were serving as executive officers at the end of the year ended December 31, 2018; and

We did not have any individuals for whom disclosure would have been required but for the fact that the individual was not serving as an executive officer as of the end of fiscal 2018.

**Summary Compensation Table**

| Name and Principal Position | Year | Salary ($) | Bonus ($) | Stock Awards[1] ($) | Option Awards[2] ($) | Non-Equity Incentive Plan Compensation ($) | Nonqualified Deferred Compensation Earnings ($) | All Other Compensation ($) | Total ($) |
|---|---|---|---|---|---|---|---|---|---|
| Rory J. Cutaia[3] *Chairman, President, Chief Executive Officer, and Secretary* | 2018 | 436,000 | - | - | - | - | - | 1,186,000 | 1,622,000 [4] |
| | 2017 | 400,000 | - | 710,000 | 167,000 | - | - | 690,000 | 1,967,000[5] |
| Jeffrey R. Clayborne[6] *Chief Financial* Officer | 2018 | 110,000 | - | - | 17,000 | - | - | - | 127,000 |
| | 2017 | 96,000 | - | 325,000 | 313,000 | - | - | - | 733,000 |
| Chad J. Thomas[7] *Chief Technology* Officer | 2018 | 28,000 | - | - | 965,000 | - | - | - | 993,000 |
| | 2017 | - | - | - | - | - | - | - | - |

(1) For valuation purposes, the dollar amount shown is calculated based on the market price of our Common Stock on the grant dates. The number of shares granted, the grant date, and the market price of such shares for each named executive officer is set forth below.

(2) For valuation assumptions on stock option awards refer to Note 2 to the audited consolidated financial statements for the year ended December 31, 2018 included as part of this Annual Report. The disclosed amounts reflect the fair value of the stock option awards that were earned during fiscal years ended December 31, 2018 and 2017 in accordance with FASB ASC Topic 718.

(3) Mr. Cutaia was appointed as Chairman of the Board, President, Chief Executive Officer, Secretary, and Treasurer on October 16, 2014.

(4) As of December 31, 2018, Mr. Cutaia had accrued but unpaid compensation equal to $188,000.

(5) As of December 31, 2017, Mr. Cutaia had accrued but unpaid compensation equal to $400,000.

(6) Mr. Clayborne was appointed as Chief Financial Officer on July 15, 2016.

(7) Mr. Thomas was appointed as Chief Technology Officer on October 12, 2018.

**Narrative Disclosure to Summary Compensation Table**

The following is a discussion of the material information that we believe is necessary to understand the information disclosed in the foregoing Summary Compensation Table.

*Rory J. Cutaia*

On November 1, 2014, we entered into an employment agreement with Mr. Cutaia. The employment agreement is for a five-year term, and can be extended for additional one-year periods. In addition to certain payments due to Mr. Cutaia upon termination of employment, the employment agreement contains customary non-competition, non-solicitation, and confidentiality provisions. Mr. Cutaia is entitled to a base salary of $325,000 per year, with annual increases of 10%. Mr. Cutaia is also entitled to a mandatory increase of not less than $100,000 per annum upon us achieving EBITDA break-even. In addition, Mr. Cutaia is eligible for an annual bonus in an amount of $325,000 upon the achievement of certain performance targets established by the board of directors, as well as an annual stock option grant of 16,667 shares of our Common Stock. Finally, Mr. Cutaia is eligible for certain other benefits such as health, vision, and dental insurance, life insurance, and 401(k) Company matching.

Mr. Cutaia earned total cash compensation for his services to us in the amount of $436,000 and $400,000 for fiscal years 2018 and 2017, respectively.

On August 15, 2017, we issued Mr. Cutaia 250,000 shares of our Common Stock. The price per share was $2.25, as reported by the OTCQB.

On January 10, 2017, we granted Mr. Cutaia a stock option to purchase up to 133,333 shares of our Common Stock at an exercise price of $1.20 per share. The option is not currently vested, but will vest in full on January 10, 2020, and will expire on January 9, 2022. On December 19, 2017, we granted Mr. Cutaia a stock option to purchase up to 16,667 shares of our Common Stock at an exercise price of $1.16 per share. The option was vested as to 8,333 shares on the date of grant and will vest as to the other 8,333 shares on December 18, 2018 and will expire on December 18, 2022.

On March 7, 2018, we issued Mr. Cutaia 100,000 shares of our Common Stock for services rendered in 2017. The price per share was $6.60, as reported on the OTCQB.

Mr. Cutaia also received $1,186,000 and $690,000 for fiscal years 2018 and 2017, respectively, as "other compensation," which represented warrants with 3-year terms to purchase up to 186,675 and 205,623 shares of our Common Stock, respectively.

*Jeffrey R. Clayborne*

Mr. Clayborne earned total cash compensation for his services to us in the amount of $110,000 and $96,000 for fiscal years 2018 and 2017, respectively.

On May 4, 2017, we issued Mr. Clayborne 33,333 shares of our Common Stock. The price per share was $5.40, as reported on the OTCQB.

On January 10, 2017, we granted Mr. Clayborne a stock option to purchase 133,333 shares of our Common Stock at an exercise price of $1.20 per share. All of the shares will vest on January 10, 2020. On May 4, 2017, we granted Mr. Clayborne a stock option to purchase 33,333 shares of our Common Stock at an exercise price of $1.20 per share. The shares will vest annually in three equal installments. As of February 1, 2019, 166,667 shares were vested.

On March 7, 2018, we issued Mr. Clayborne 100,000 shares of our Common Stock for services rendered in 2017. The price per share was $6.60, as reported on the OTCQB.

On January 22, 2018, we granted Mr. Clayborne a stock option to purchase 12,876 shares of our Common Stock at an exercise price of $1.35. The shares vested on grant date.

*Chad J. Thomas*

Mr. Thomas earned total cash compensation for his services to us in the amount of $28,000 for fiscal year 2018.

On October 12, 2018 we granted Mr. Thomas a stock option to purchase 133,333 shares of our Common Stock at an exercise price of $7.50. The shares will vest annually in three equal installments. As of February 1, 2019, no shares were vested.

**Outstanding Equity Awards at Fiscal Year-End**

We did not have any stock awards outstanding as at December 31, 2018. The following table sets forth, for each named executive officer, certain information concerning outstanding option awards as of December 31, 2018:

| Name | Number of securities underlying unexercised options (exercisable) (#) | Number of securities underlying unexercised options (unexercisable) (#) | Option exercise price ($) | Option expiration date |
|---|---|---|---|---|
| Rory J. Cutaia | 16,667 | - | 1.20 | December 18, 2022[1] |
| | - | 133,333 | 1.20 | January 9, 2022[2] |
| | 16,667 | - | 1.65 | October 31, 2012[3] |
| | 83,333 | - | 1.50 | May 11, 2021[4] |
| | 16,667 | - | 1.20 | November 1, 2019[5] |
| | 53,333 | - | 7.50 | May 12, 2019[6] |
| Jeffrey R. Clayborne | 11,111 | 22,222 | 5.40 | May 3, 2022[7] |
| | - | 133,333 | 1.20 | January 9, 2022[8] |
| | 68,889 | 31,178 | 1.65 | July 14, 2021[9] |
| | 12,876 | - | 1.35 | January 21, 2023[10] |
| Chad J. Thomas | - | 133,333 | 7.50 | October 11, 2023[11] |

(1) All shares have fully vested.

(2) 133,333 shares will vest on January 10, 2020.

(3) All shares have fully vested.

(4) 83,333 shares vested on the grant date.

(5) All shares have fully vested.

(6) All shares have fully vested.

(7) Shares will vest annually in three equal installments.

(8) All 133,333 shares will vest on January 10, 2020.

(9) 6,667 shares vested on the grant date, and the remaining 93,333 shares will vest annually in three equal installments.

(10) All shares vested on the grant date.

(11) Shares will vest annually in three equal installments.

**Retirement or Similar Benefit Plans**

There are no arrangements or plans in which we provide retirement or similar benefits for our directors or executive officers.

**Resignation, Retirement, Other Termination, or Change in Control Arrangements**

Other than as disclosed below, we have no contract, agreement, plan, or arrangement, whether written or unwritten, that provides for payments to our directors or executive officers at, following, or in connection with the resignation, retirement, or other termination of our directors or executive officers, or a change in control of our company or a change in our directors' or executive officers' responsibilities following a change in control.

*Rory J. Cutaia*

Pursuant to Mr. Cutaia's employment agreement dated November 1, 2014 (the "Employment Agreement"), Mr. Cutaia is entitled to the following severance package in the event he is "terminated without cause," "terminated for good reason," or "terminated upon permanent disability:" (i) monthly payments of $27,000 or such sum equal to his monthly base compensation at the time of the termination, whichever is higher, for a period of thirty-six (36) months from the date of such termination or to the end of the term of the Employment Agreement, whichever is longer; and (ii) reimbursement for COBRA health insurance costs for thirty-six (36) months from the date of such termination or to the end of the term of the Employment Agreement, whichever is longer. In addition, Mr. Cutaia's unvested equity will immediately vest, without restriction, and any unearned and unpaid bonus compensation, expense reimbursement, and all accrued vacation, personal, and sick days, etc. shall be deemed earned, vested, and paid immediately. For purposes of the Employment Agreement, "terminated without cause" means Mr. Cutaia is terminated for any reason other than a discharge for cause or due to Mr. Cutaia's death or permanent disability. For purposes of the Employment Agreement, "terminated for good reason" means the voluntary termination of the Employment Agreement by Mr. Cutaia if any of the following occurs without his prior written consent, which consent cannot be unreasonably withheld considering our then current financial condition, and in each case, which continues uncured for 30 days following receipt by us of Mr. Cutaia's written notice: (i) there is a material reduction by us in (A) Mr. Cutaia's annual base salary then in effect or (B) the annual target bonus, as set forth in the Employment Agreement, or the maximum additional amount up to which Mr. Cutaia is eligible pursuant to the Employment Agreement; (ii) we reduce Mr. Cutaia's job title and position such that Mr. Cutaia (A) is no longer our Chief Executive Officer; (B) is no longer the Chairman of our board of directors; or (C) is involuntarily removed from our board of directors; or (iii) Mr. Cutaia is required to relocated to an office location outside of Los Angeles, California or outside of a thirty (30) mile radius of Los Angeles, California. For purposes of the Employment Agreement, "terminated upon permanent disability" means Mr. Cutaia is terminated because he is unable to perform his duties due to a physical or mental condition for (i) a period of one hundred twenty (120) consecutive days or (ii) an aggregate of one-hundred eighty (180) days in any twelve (12)-month period.

**Director Summary Compensation Table**

The table below summarizes the compensation paid to our non-employee directors for the fiscal year ended December 31, 2018:

| Name[1] | Fees earned or paid in cash ($) | Stock awards ($) | Option awards ($) | Non-equity incentive plan compensation ($) | Nonqualified deferred compensation earnings ($) | All other compensation ($) | Total ($) |
|---|---|---|---|---|---|---|---|
| James P. Geiskopf | - | - | - | - | - | - | - |
| Philip J. Bond | - | - | 483,000[2,3] | - | - | - | 483,000 |
| Kenneth S. Cragun | - | - | 483,000[2,3] | - | - | - | 483,000 |

(1) Rory J. Cutaia, our Chairman of the board, Chief Executive Officer, President, Secretary, and Treasurer during fiscal 2018, is not included in this table as he was an employee, and, thus, received no compensation for his services as a director. The compensation received by Mr. Cutaia as an employee is disclosed in the Summary Compensation Table on page 68.

(2) The aggregate number of option awards outstanding at the end of fiscal 2018 was 66,667 shares.

(3) Represents an option award of 66,667 shares of our Common Stock valued at a price per share of approximately $7.50, which was the closing price as reported on the OTCQB on the grant date.

**Narrative Discussion on Director Compensation**

We have no formal plan for compensating our directors for their services in their capacity as directors. Our directors are entitled to reimbursement for reasonable travel and other out-of-pocket expenses incurred in connection with attendance at meetings of our board of directors. Our board of directors may award special remuneration to any director undertaking any special services on their behalf other than services ordinarily required of a director.

*James P. Geiskopf*

We did not pay any compensation to Mr. Geiskopf for his services as a director during fiscal 2018.

*Philip J. Bond*

On August 27, 2018, we granted Mr. Bond a stock option to purchase up to 66,667 shares of our Common Stock at an exercise price of $7.50 per share. 13,333 of the shares vested on the inception of service, the remaining vest annually in four equal installments.

*Kenneth S. Cragun*

On August 27, 2018, we granted Mr. Cragun a stock option to purchase up to 66,667 shares of our Common Stock at an exercise price of $7.50 per share. 13,333 of the shares vested on the inception of service, the remaining vest annually in four equal installments.

**Golden Parachute Compensation**

For a description of the terms of any agreement or understanding, whether written or unwritten, between any officer or director and us concerning any type of compensation, whether present, deferred, or contingent, that will be based on or otherwise will relate to an acquisition, merger, consolidation, sale, or other type of disposition of all or substantially all assets of our company, see above under the heading “Executive Compensation,” “Director Summary Compensation Table,” and “Narrative Discussion on Director Compensation.”

**Risk Assessment in Compensation Programs**

During fiscal 2018 and 2017, we paid compensation to our employees, including executive and non-executive officers. Due to the size and scope of our business, and the amount of compensation, we did not have any employee compensation policies and programs to determine whether our policies and programs create risks that are reasonably likely to have a material adverse effect on us.

## ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

The following table sets forth, as of February 1, 2019, certain information with respect to the beneficial ownership of our Common Stock by (i) each of our current directors, (ii) each of our named executive officers, (iii) our directors and named executive officers as a group, and (iv) each stockholder known by us to be the beneficial owner of more than 5% of our outstanding our Common Stock.

| Name and Address[7] | Title of Class | Amount and Nature of Beneficial Ownership[1] | Percent Owned (%) [2] |
|---|---|---|---|
| Rory J. Cutaia c/o 344 S. Hauser Drive, Unit 414 Los Angeles, California 90036 | Common Stock | 3,837,203[3] | 30.1% |
| James P. Geiskopf c/o 344 S. Hauser Drive, Unit 414 Los Angeles, California 90036 | Common Stock | 367,600[4] | 3.0% |
| Jeffrey R. Clayborne c/o 344 S. Hauser Drive, Unit 414 Los Angeles, California 90036 | Common Stock | 226,209[5] | 1.8% |
| Philip J. Bond c/o 344 S. Hauser Drive, Unit 414 Los Angeles, California 90036 | Common Stock | 13,333[6] | 0.1% |
| Kenneth S. Cragun c/o 344 S. Hauser Drive, Unit 414 Los Angeles, California 90036 | Common Stock | 13,333[6] | 0.1% |
| **All executive officers and directors as a group (5 persons)** | **Common Stock** | **4,457,678** | **34.4%** |
| **Beneficial owner of more than 5%** | | | |
| Chakradhar Reddy 110 3rd Avenue, No. 11B New York, New York 11103 | Common Stock | 620,000 | 5.1% |

(1) Except as otherwise indicated, we believe that the beneficial owners of our Common Stock listed above, based on information furnished by such owners, have sole investment and voting power with respect to such shares, subject to community property laws where applicable. Beneficial ownership is determined in accordance with the rules of the SEC and generally includes voting or investment power with respect to securities. Common Stock subject to options or warrants currently exercisable or exercisable within 60 days, are deemed outstanding for purposes of computing the percentage ownership of the person holding such option or warrants, but are not deemed outstanding for purposes of computing the percentage ownership of any other person.

(2) Percentage of Common Stock is based on 12,213,670 shares of our Common Stock issued and outstanding as of February 1, 2019.

(3) Consists of 3,004,269 shares of our Common Stock held directly, 240,240 shares of our Common Stock held by Cutaia Media Group Holdings, LLC (an entity over which Mr. Cutaia has dispositive and voting authority), and 54,006 shares of our Common Stock held by Mr. Cutaia's spouse (as to which shares, he disclaims beneficial ownership). Also includes 195,000 shares of our Common Stock underlying stock options held directly and 40,000 shares of our Common Stock underlying stock options held by Mr. Cutaia's spouse that are exercisable within 60 days of the date of this Annual Report (as to which underlying shares, he disclaims beneficial ownership) but excludes 141,667 shares of our Common Stock underlying stock options held by Mr. Cutaia, as none of such options is exercisable within 60 days of the date of this Annual Report. The total also includes 303,688 shares of our Common Stock underlying warrants granted to Mr. Cutaia, which warrants are exercisable within 60 days of the date of this Annual Report.

(4) Includes 272,267 shares of our Common Stock held directly and 5,333 shares of our Common Stock held by Mr. Geiskopf's children. Also includes 90,000 shares of our Common Stock underlying stock options exercisable within 60 days of the date of this Annual Report. Excludes 133,333 shares of our Common Stock underlying stock options not exercisable within 60 days of the date of this Annual Report.

(5) Includes 133,333 shares of our Common Stock held directly. Also, includes 92,876 shares of our Common Stock underlying stock options that are exercisable within 60 days of the date of this Annual Report. Excludes 186,667 shares of our Common Stock underlying stock options that are not exercisable within 60 days of the date of this Annual Report.

(6) Includes 13,333 shares of our Common Stock underlying stock options exercisable within 60 days of the date of this Annual Report. Excludes 53,333 shares of our Common Stock underlying stock options not exercisable within 60 days of the date of this Annual Report.

(7) Chad J. Thomas, our Chief Technology Officer, is not included because as of the date of this filing, he does not beneficially own any shares of our Common Stock.

**Changes in Control**

We do not know of any arrangements that may, at a subsequent date, result in a change in control.

**ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE**

**Transactions with Related Persons**

We follow ASC 850, Related Party Disclosures, for the identification of related parties and disclosure of related party transactions. When and if we contemplate entering into a transaction in which any executive officer, director, nominee, or any family member of the foregoing would have a direct or indirect interest, regardless of the amount involved, the terms of such transaction are to be presented to our full board of directors (other than any interested director) for approval, and documented in the board minutes.

Other than as disclosed below, we have had no related party transactions.

***Notes Payable to Related Parties***

The Company has the following outstanding notes payable to related parties at December 31, 2018 and 2017:

| Note | Issuance Date | Maturity Date | Interest Rate | Original Borrowing | Largest Aggregate Amount Outstanding Since January 1, 2018 | Amount Outstanding as of February 1, 2019 | Interest Paid Since January 1, 2019 | Interest Paid Since January 1, 2018 |
|---|---|---|---|---|---|---|---|---|
| Note 1[(1)] | December 1, 2015 | February 8, 2021 | 12.0% | $ 1,249,000 | $ 1,199,000 | $ 825,000 | $ - | $ 132,000 |
| Note 2[(2)] | December 1, 2015 | February 8, 2021 | 12.0% | 189,000 | 189,000 | - | - | 17,000 |
| Note 3[(3)] | December 1, 2015 | April 1, 2017 | 12.0% | 112,000 | 112,000 | 112,000 | - | - |
| Note 4[(4)] | April 4, 2016 | June 4, 2021 | 12.0% | 343,000 | 343,000 | 240,000 | - | 84,000 |
| Note 5[(5)] | April 4, 2016 | December 4, 2018 | 12.0% | 122,000 | 122,000 | - | - | 37,000 |
| **Total notes payable – related parties** | | | | | **$ 1,965,000** | **$ 1,177,000** | **$ -** | **$ 269,000** |

(1) On December 1, 2015, the Company issued a convertible note payable to Mr. Rory J. Cutaia, the Company's majority stockholder and Chief Executive Officer, to consolidate all loans and advances made by Mr. Cutaia to the Company as of that date. The note bears interest at a rate of 12% per annum, secured by the Company's assets and originally matured on August 1, 2018. Per the terms of the note agreement, at Mr. Cutaia's discretion, he may convert up to 30%, or $375,000, of outstanding principal, plus accrued interest thereon, into shares of common stock at a conversion rate of $1.05 per share. As of December 31, 2017, the total outstanding balance of the note amounted to $1,199,000.

On May 4, 2017, the Company entered into an extension agreement with Mr. Cutaia to extend the maturity date of the note from April 1, 2017 to August 1, 2018. In consideration, the Company issued Mr. Cutaia a three-year warrant to purchase 1,755,192 shares of common stock at a price of $0.355 per share with a fair value of $517,000. All other terms of the Note remain unchanged. The Company determined that the extension of the note's maturity resulted in a debt extinguishment for accounting purposes since the fair value of the warrants granted was more than 10% of the original value of the convertible note. As result, Company recorded the fair value of the new note which approximates the original carrying value $1,199,000 and expensed the fair value of the warrants granted of $517,000 as debt extinguishment costs. As of December 31, 2017, total outstanding balance of the note amounted to $1,199,000.

On August 8, 2018, we entered into an extension agreement with Mr. Cutaia to extend the maturity date of the note to February 8, 2021. All other terms of the note remain unchanged. In connection with the extension, we granted to Mr. Cutaia a three-year warrant to purchase up to 163,113 shares of Common Stock at a price of $7.35 per share with a fair value of $1,075,000.

As of December 31, 2018, the outstanding balance of the note amounted to $825,000.

(2) On December 1, 2015, the Company issued a convertible note to Mr. Cutaia in the amount of $189,000, representing a portion of Mr. Cutaia's accrued salary for 2015. The note was unsecured, bore interest at a rate of 12% per annum, and was convertible into shares of Common Stock at a conversion price of $1.05 per share. The original maturity date of August 1, 2018, was subsequently extended to February 8, 2021. As of December 31, 2017, outstanding balance of the note amounted to $189,000.

On September 30, 2018, Mr. Cutaia converted the entire unpaid balance of $189,000 into 180,000 restricted shares of our Common Stock at $1.05 per share.

(3) On December 1, 2015, the Company issued a note payable to a former member of the Company's board of directors, in the amount of $112,000, representing unpaid consulting fees as of November 30, 2015. The note is unsecured, bears interest at a rate of 12% per annum, and matured in April 2017.

As of December 31, 2018, and the date of this Annual Report, the note is past due. The Company is currently in negotiations with the note holder to settle the note payable.

(4) On April 4, 2016, the Company issued a convertible note to Mr. Cutaia, in the amount of $343,000, to consolidate all advances made by Mr. Cutaia to the Company from December 2015 through March 2016. The note bears interest at a rate of 12% per annum, is secured by the Company's assets, and originally matured on December 4, 2018. Pursuant to the terms of the note, a total of 30% of the note principal, or $103,000, can be converted into shares of Common Stock at a conversion price of $1.05 per share. As of December 31, 2017, the outstanding balance of the note was $343,000.

On September 30, 2018, pursuant to the terms of the note, Mr. Cutaia converted 30% of the principal balance, or $103,000, into 98,093 restricted shares of our Common Stock at $1.05 per share.

On December 4, 2018, we entered into an extension agreement with Mr. Cutaia to extend the maturity date of the note to June 4, 2021. All other terms of the note remain unchanged. In connection with the extension, we granted to Mr. Cutaia a three-year warrant to purchase up to 353,000 shares of Common Stock at a price of $5.10 per share with a fair value of $111,000.

As of December 31, 2018, the outstanding balance of the note amounted to $240,000.

(5) On April 4, 2016, the Company issued a convertible note payable to Mr. Cutaia in the amount of $122,000, representing his unpaid salary from December 2015 through March 2016. The note was unsecured, bore interest at the rate of 12% per annum, originally matured on December 4, 2018, and converted into Common Stock at a conversion price of $1.05 per share. As of December 31, 2017, the outstanding balance of the note amounted to $122,000.

On September 30, 2018, Mr. Cutaia converted the entire outstanding principal amount of $122,000 into 116,071 shares of restricted shares of Common Stock. Thus, as of that date, the note was satisfied in full.

**Director Independence**

Our board of directors is currently composed of four members. Our Common Stock is not currently listed for trading on a national securities exchange and, as such, we are not subject to any director independence standards. However, we determined that three directors, James P. Geiskopf, Philip J. Bond, and Kenneth S. Cragun qualify as independent directors. We determined that Mr. Cutaia, our Chairman of the Board, President, Chief Executive Officer, Treasurer, and Secretary, is not independent. We evaluated independence in accordance with the rules of NASDAQ and the SEC. Mr. Geiskopf, Mr. Bond, and Mr. Cragun also serve on our Audit, Compensation, and Governance and Nominating Committees.

## ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

**Audit Fees**

The following table sets forth the fees billed to us for the year ended December 31, 2018 and 2017 for professional services rendered by our independent registered public accounting firm, Weinberg & Company.

| Fees | 2018 | 2017 |
|---|---|---|
| Audit Fees | $ 57,000 | $ 32,000 |
| Audit Related Fees | 1,000 | 1,000 |
| Tax Fees | - | - |
| Other Fees related to acquisition audit of Sound Concepts, Inc. | 237,000 | 39,000 |
| **Total Fees** | $ 295,000 | $ 72,000 |

**Pre-Approval Policies and Procedures**

The Audit Committee has adopted policies and procedures to oversee the external audit process and pre-approves all services provided by our independent registered public accounting firm. Prior to the addition of Mr. Bond and Mr. Cragun as members of the Audit Committee, the entire board of directors, consisting of Mr. Cutaia and Mr. Geiskopf acted as our Audit Committee and was responsible for pre-approving all services provided by our independent registered public accounting firm. All of the above services and fees were reviewed and approved by our board of directors or Audit Committee, as applicable, before the respective services were rendered.

## PART IV

## ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES

| Exhibit No. | Description |
|---|---|
| 2.1 | Share Exchange Agreement dated as of August 11, 2014 by and among Global System Designs, Inc., bBooth (USA), Inc. (formerly bBooth, Inc.), and the stockholders of bBooth (USA), Inc. (formerly bBooth, Inc.), which was filed as Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on August 15, 2014, and is incorporated herein by reference thereto. |
| 3.1 | Articles of Incorporation as filed with the Secretary of State of the State of Nevada on November 27, 2012, which was filed as Exhibit 3.1 to our Registration Statement on Form S-1 (File No. 333-187782) filed with the SEC on April 8, 2013, and is incorporated herein by reference thereto. |
| 3.2 | Bylaws, which were filed as Exhibit 3.2 to our Registration Statement on Form S-1 (File No. 333-187782) filed with the SEC on April 8, 2013, and is incorporated herein by reference thereto. |
| 3.3 | Certificate of Change as filed with the Secretary of State of the State of Nevada on October 6, 2014, which was filed as Exhibit 3.3 to our Current Report on Form 8-K filed with the SEC on October 22, 2014, and is incorporated herein by reference thereto. |
| 3.4 | Articles of Merger as filed with the Secretary of State of the State of Nevada on October 6, 2014, which was filed as Exhibit 3.4 to our Current Report on Form 8-K filed with the SEC on October 22, 2014, and is incorporated herein by reference thereto. |
| 3.5 | Articles of Merger as filed with the Secretary of State of the State of Nevada on April 4, 2017, which was filed as Exhibit 3.5 to our Current Report on Form 8-K filed with the SEC on April 24, 2017, and is incorporated herein by reference thereto. |

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| 3.6 | Certificate of Correction as filed with the Secretary of State of the State of Nevada on April 17, 2017, which was filed as Exhibit 3.6 to our Current Report on Form 8-K filed with the SEC on April 24, 2017, and is incorporated herein by reference thereto. |
| 3.7* | Certificate of Change as filed with the Secretary of State of the State of Nevada on January 31 2019. |
| 3.8* | Articles of Merger as filed with the Secretary of State of the State of Nevada on January 31, 2019. |
| 4.1 | Common Stock Purchase Warrant (First Warrant) dated September 15, 2017, issued to Kodiak Capital Group, LLC, which was filed as Exhibit 4.1 to our Current Report on Form 8-K filed with the SEC on October 2, 2017, and is incorporated herein by reference thereto. |
| 4.2 | Common Stock Purchase Warrant (Second Warrant) dated September 15, 2017, issued to Kodiak Capital Group, LLC, which was filed as Exhibit 4.2 to our Current Report on Form 8-K filed with the SEC on October 2, 2017, and is incorporated herein by reference thereto. |
| 4.3 | Common Stock Purchase Warrant (Third Warrant) dated September 15, 2017, issued to Kodiak Capital Group, LLC, which was filed as Exhibit 4.3 to our Current Report on Form 8-K filed with the SEC on October 2, 2017, and is incorporated herein by reference thereto. |
| 4.4 | Promissory Note (Commitment Note), dated September 15, 2017, issued by the Company in favor of Kodiak Capital Group, LLC, which was filed as Exhibit 4.4 to our Current Report on Form 8-K filed with the SEC on October 2, 2017, and is incorporated herein by reference thereto. |
| 4.5 | Promissory Note (First Note), dated September 15, 2017, issued by the Company in favor of Kodiak Capital Group, LLC, which was filed as Exhibit 4.5 to our Current Report on Form 8-K filed with the SEC on October 2, 2017, and is incorporated herein by reference thereto. |
| 4.6 | Promissory Note (Second Note), dated September 15, 2017, issued by the Company in favor of Kodiak Capital Group, LLC, which was filed as Exhibit 4.6 to our Current Report on Form 8-K filed with the SEC on October 2, 2017, and is incorporated herein by reference thereto. |
| 4.7 | Form of Warrant Certificate dated March 20, 2015, which was filed as Exhibit 10.3 to our Current Report on Form 8-K filed with the SEC on March 27, 2015, and is incorporated herein by reference thereto. |
| 4.8 | 12% Secured Convertible Note dated December 1, 2015, issued by the Company in favor of Rory J. Cutaia, which was filed as Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on December 7, 2015, and is incorporated herein by reference thereto. |
| 4.9 | 12% Unsecured Convertible Note dated December 1, 2015, issued by the Company in favor of Rory J. Cutaia, which was filed as Exhibit 10.3 to our Current Report on Form 8-K filed with the SEC on December 7, 2015, and is incorporated herein by reference thereto. |
| 4.10 | 12% Unsecured Note dated December 1, 2015, issued by the Company in favor of Audit Prep Services, LLC, which was filed as Exhibit 10.4 to our Current Report on Form 8-K filed with the SEC on December 7, 2015, and is incorporated herein by reference thereto. |
| 4.11 | Form of 12% Secured Convertible Note dated April 4, 2016, issued by the Company in favor of Rory J. Cutaia, which was filed as Exhibit 10.2 to our Current Report on Form 8-K filed with the SEC on April 11, 2016, and is incorporated herein by reference thereto. |
| 4.12 | Form of Warrant Certificate dated April 4, 2016 issued to Rory J. Cutaia, which was filed as Exhibit 10.4 to our Current Report on Form 8-K filed with the SEC on April 11, 2016, and is incorporated herein by reference thereto. |
| 4.13 | Form of 12% Unsecured Convertible Note dated April 4, 2016, issued by the Company in favor of Rory J. Cutaia, which was filed as Exhibit 10.5 to our Current Report on Form 8-K filed with the SEC on April 11, 2016, and is incorporated herein by reference thereto. |
| 4.14 | Form of 12% Unsecured Convertible Note dated April 4, 2016, issued by the Company in favor of Oceanside Strategies, Inc., which was filed as Exhibit 10.6 to our Current Report on Form 8-K filed with the SEC on April 11, 2016, and is incorporated herein by reference thereto. |
| 4.15 | Form of Warrant Certificate dated April 4, 2016 issued to Oceanside Strategies, Inc., which was filed as Exhibit 10.7 to our Current Report on Form 8-K filed with the SEC on April 11, 2016, and is incorporated herein by reference thereto. |
| 4.16 | Amendment to 12% Unsecured Convertible Note dated December 30, 2016, issued by the Company in favor of Oceanside Strategies, Inc., which was filed as Exhibit 10.2 to our Current Report on Form 8-K filed with the SEC on January 9, 2017, and is incorporated herein by reference thereto. |
| 4.17 | Warrant Certificate dated December 30, 2016 issued to Oceanside Strategies, Inc., which was filed as Exhibit 10.3 to our Current Report on Form 8-K filed with the SEC on January 9, 2017, and is incorporated herein by reference thereto. |

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|---|---|
| 4.18 | Certificate of Designations, Preferences and Rights of the Series A Convertible Preferred Stock as filed with the Secretary of State of the State of Nevada on February 13, 2017, which was filed as Exhibit 10.2 to our Current Report on Form 8-K filed with the SEC on February 21, 2017, and is incorporated herein by reference thereto. |
| 4.19 | Amendment to Certificate of Designations, Preferences and Rights of the Series A Convertible Preferred Stock as filed with the Secretary of State of the State of Nevada on July 28, 2017, which was filed as Exhibit 10.37 to our Quarterly Report on Form 10-Q filed with the SEC on August 10, 2017, and is incorporated herein by reference thereto. |
| 4.20 | 8% Unsecured Convertible Note dated December 5, 2017 issued by the Company in favor of EMA Financial, LLC, which was filed as Exhibit 10.2 to our Current Report on Form 8-K filed with the SEC on December 14, 2017, and is incorporated herein by reference thereto. |
| 4.21 | Common Stock Purchase Warrant dated December 5, 2017 issued to EMA Financial, LLC, which was filed as Exhibit 10.3 to our Current Report on Form 8-K filed with the SEC on December 14, 2017, and is incorporated herein by reference thereto. |
| 4.22 | 8% Unsecured Convertible Note dated December 5, 2017 issued by the Company in favor of Auctus Fund, LLC, which was filed as Exhibit 10.5 to our Current Report on Form 8-K filed with the SEC on December 14, 2017, and is incorporated herein by reference thereto. |
| 4.23 | Common Stock Purchase Warrant dated December 5, 2017 issued to Auctus Fund, LLC, which was filed as Exhibit 10.6 to our Current Report on Form 8-K filed with the SEC on December 14, 2017, and is incorporated herein by reference thereto. |
| 4.24 | 8% Unsecured Convertible Note dated December 13, 2017 issued by the Company in favor of PowerUp Lending Group, LTD., which was filed as Exhibit 10.8 to our Current Report on Form 8-K filed with the SEC on December 14, 2017, and is incorporated herein by reference thereto. |
| 4.25 | 8% Unsecured Convertible Note dated January 11, 2018 issued by the Company in favor of EMA Financial, LLC, which was filed as Exhibit 10.2 to our Current Report on Form 8-K filed with the SEC on January 26, 2018, and is incorporated herein by reference thereto. |
| 4.26 | Common Stock Purchase Warrant dated January 11, 2018 issued to EMA Financial, LLC, which was filed as Exhibit 10.3 to our Current Report on Form 8-K filed with the SEC on January 26, 2018, and is incorporated herein by reference thereto. |
| 4.25 | 8% Unsecured Convertible Note dated January 10, 2018 issued by the Company in favor of Auctus Fund, LLC, which was filed as Exhibit 10.5 to our Current Report on Form 8-K filed with the SEC on January 26, 2018, and is incorporated herein by reference thereto. |
| 4.26 | Common Stock Purchase Warrant dated January 10, 2018 issued to Auctus Fund, LLC, which was filed as Exhibit 10.6 to our Current Report on Form 8-K filed with the SEC on January 26, 2018, and is incorporated herein by reference thereto. |
| 4.27 | 8% Unsecured Convertible Note dated January 10, 2018 issued by the Company in favor of Auctus Fund, LLC, which was filed as Exhibit 10.5 to our Current Report on Form 8-K filed with the SEC on January 26, 2018, and is incorporated herein by reference thereto. |
| 4.28 | Common Stock Purchase Warrant dated January 10, 2018 issued to Auctus Fund, LLC, which was filed as Exhibit 10.6 to our Current Report on Form 8-K filed with the SEC on January 26, 2018, and is incorporated herein by reference thereto. |
| 4.29 | Amendment to Certificate of Designations, Preferences and Rights of the Series A Convertible Preferred Stock as filed with the Secretary of State of the State of Nevada on September 1, 2017, which was filed as Exhibit 4.27 to our Registration Statement on Form S-1 (File No. 333-226840) filed with the SEC on August 14, 2018, and is incorporated herein by reference thereto. |
| 4.30 | Certificate of Withdrawal of Certificate of Designation of Series A Convertible Preferred Stock as filed with the Secretary of State of the State of Nevada on August 10, 2018, which was filed as Exhibit 4.28 to our Registration Statement on Form S-1 (File No. 333-226840) filed with the SEC on August 14, 2018, and is incorporated herein by reference thereto. |
| 4.31* | Convertible Promissory Note date October 30, 2018 in favor of Ira Gains. |
| 4.32* | Convertible Promissory Note date October 30, 2018 in favor of Gina Trippiedi. |
| 4.33* | 5% Original Issue Discount Promissory Note due August 1, 2019 issued in favor of Bellridge |
| 10.1 | 2014 Stock Option Plan, which is filed as Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on October 22, 2014, and is incorporated herein by reference thereto. |
| 10.2 | Employment Agreement dated November 1, 2014, by and between the Company and Rory Cutaia, which was filed as Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on November 24, 2014, and is incorporated herein by reference thereto. |

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| 10.3 | Secured Promissory Note dated December 11, 2014 issued by Songstagram, Inc. in favor of the Company, which was filed as Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on December 17, 2014, and is incorporated herein by reference thereto. |
| 10.4 | Secured Promissory Note dated December 11, 2014 issued by Rocky Wright in favor of the Company, which was filed as Exhibit 10.2 to our Current Report on Form 8-K filed with the SEC on December 17, 2014, and is incorporated herein by reference thereto. |
| 10.5 | Security Agreement dated December 11, 2014 executed by Songstagram, Inc. in favor of the Company, which was filed as Exhibit 10.3 to our Current Report on Form 8-K filed with the SEC on December 17, 2014, and is incorporated herein by reference thereto. |
| 10.6 | Security Agreement dated December 11, 2014 executed Rocky Wright in favor of the Company, which was filed as Exhibit 10.4 to our Current Report on Form 8-K filed with the SEC on December 17, 2014, and is incorporated herein by reference thereto. |
| 10.7 | Acquisition Agreement dated January 20, 2015 among Songstagram, Inc., Rocky Wright, and us, which was filed as Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on January 26, 2015, and is incorporated herein by reference thereto. |
| 10.8 | Surrender of Collateral, Consent to Strict Foreclosure and Release Agreement dated January 20, 2015, by and between Songstagram, Inc. and the Company, which was filed as Exhibit 10.2 to our Current Report on Form 8-K filed with the SEC on January 26, 2015, and is incorporated herein by reference thereto. |
| 10.9 | Form of Termination Agreement and Release dated January 20, 2015, which was filed as Exhibit 10.3 to our Current Report on Form 8-K filed with the SEC on January 26, 2015, and is incorporated herein by reference thereto. |
| 10.10 | Settlement and Release Agreement dated February 6, 2015, by and among Songstagram, Inc., Jeff Franklin, and the Company, which was filed as Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on March 9, 2015, and is incorporated herein by reference thereto. |
| 10.11 | Engagement letter dated March 20, 2015, by and among DelMorgan Group LLC, Globalist Capital, LLC, and the Company, which was filed as Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on March 27, 2015, and is incorporated herein by reference thereto. |
| 10.12 | Form of Note Purchase Agreement dated March 20, 2015, which was filed as Exhibit 10.2 to our Current Report on Form 8-K filed with the SEC on March 27, 2015, and is incorporated herein by reference thereto. |
| 10.13 | Security Agreement issued by the Company in favor of Rory J. Cutaia, which was filed as Exhibit 10.2 to our Current Report on Form 8-K filed with the SEC on December 7, 2015, and is incorporated herein by reference thereto. |
| 10.14 | Form of Stock Repurchase Agreement, which was filed as Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on February 16, 2016, and is incorporated herein by reference thereto. |
| 10.15 | Form of Private Placement Subscription Agreement, which was filed as Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on April 11, 2016, and is incorporated herein by reference thereto. |
| 10.16 | Form of Security Agreement issued by the Company in favor of Rory J. Cutaia, which was filed as Exhibit 10.3 to our Current Report on Form 8-K filed with the SEC on April 11, 2016, and is incorporated herein by reference thereto. |
| 10.17 | Form of Private Placement Subscription Agreement, which was filed as Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on May 19, 2016, and is incorporated herein by reference thereto. |
| 10.18 | Form of Option Agreement for Messrs. Geiskopf and Cutaia, which was filed as Exhibit 10.2 to our Current Report on Form 8-K filed with the SEC on May 19, 2016, and is incorporated herein by reference thereto. |
| 10.19 | Term Sheet dated July 12, 2016, between Nick Cannon and the Company, which was filed as Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on May 19, 2016, and is incorporated herein by reference thereto. |
| 10.20 | Form of Stock Option Agreement between Jeffrey R. Clayborne and the Company, which was filed as Exhibit 10.2 to our Current Report on Form 8-K filed with the SEC on May 19, 2016, and is incorporated herein by reference thereto. |

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| 10.21 | Form of Consulting Agreement dated August 8, 2016, by and between International Monetary and the Company, which was filed as Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on August 15, 2016, and is incorporated herein by reference thereto. |
| 10.22 | Form of Private Placement Subscription Agreement, which was filed as Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on September 19, 2016, and is incorporated herein by reference thereto. |
| 10.23 | Securities Purchase Agreement dated February 13, 2017, by and between the Company and certain purchasers named therein, which was filed as Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on February 21, 2017, and is incorporated herein by reference thereto. |
| 10.24 | Equity Purchase Agreement, as corrected, dated September 15, 2017, by and between the Company and Kodiak Capital Group, LLC, which was filed as Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on October 27, 2017, and is incorporated herein by reference thereto. |
| 10.25 | Registration Rights Agreement dated September 15, 2017, by and between the Company and Kodiak Capital Group, LLC, which was filed as Exhibit 10.2 to our Current Report on Form 8-K filed with the SEC on October 2, 2017, and is incorporated herein by reference thereto. |
| 10.26 | Securities Purchase Agreement dated December 5, 2017, by and between the Company and EMA Financial, LLC, which was filed as Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on December 14, 2017, and is incorporated herein by reference thereto. |
| 10.27 | Securities Purchase Agreement, dated December 5, 2017, by and between the Company and Auctus Fund, LLC, which was filed as Exhibit 10.4 to our Current Report on Form 8-K filed with the SEC on December 14, 2017, and is incorporated herein by reference thereto. |
| 10.28 | Securities Purchase Agreement dated December 13, 2017, by and between the Company and PowerUp Lending Group, LTD, which was filed as Exhibit 10.7 to our Current Report on Form 8-K filed with the SEC on December 14, 2017, and is incorporated herein by reference thereto. |
| 10.29 | Securities Purchase Agreement dated January 11, 2018, by and between the Company and EMA Financial, LLC, which was filed as Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on January 26, 2018, and is incorporated herein by reference thereto. |
| 10.30 | Securities Purchase Agreement, dated January 10, 2018, by and between the Company and Auctus Fund, LLC, which was filed as Exhibit 10.4 to our Current Report on Form 8-K filed with the SEC on January 26, 2018, and is incorporated herein by reference thereto. |
| 10.31 | SuiteCloud Developer Network Agreement, dated January 2, 2018, by and between the Company and Oracle, which was filed as Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on April 23, 2018, and is incorporated herein by reference thereto. |
| 10.32 | Lease Agreement, dated June 22, 2017, by and between La Park La Brea B LLC and the Company, which was filed as Exhibit 10.33 to our Registration Statement on Form S-1 (File No. 333-226840) filed with the SEC on August 14, 2018, and is incorporated herein by reference thereto. |
| 10.33 | Renewal Amendment of Lease Agreement, dated May 1, 2018, by and between La Park La Brea B LLC and the Company, which was filed as Exhibit 10.34 to our Registration Statement on Form S-1 (File No. 333-226840) filed with the SEC on August 14, 2018, and is incorporated herein by reference thereto. |
| 10.34 | Adobe Marketo LaunchPoint Accelerate Program Agreement, dated April 1, 2018, by and between the Company and Adobe Marketo, which was filed as Exhibit 10.35 to our Registration Statement on Form S-1 (File No. 333-226840) filed with the SEC on August 14, 2018, and is incorporated herein by reference thereto. |
| 10.35 | Securities Purchase Agreement, dated October 19, 2018, which was filed as Exhibit 10.36 to our Current Report on Form 8-K filed with the SEC on October 25, 2018, and is incorporated herein by reference thereto. |
| 10.36 | 10% Original Issue Discount Promissory Note, dated October 19, 2018, which was filed as Exhibit 10.37 to our Current Report on Form 8-K filed with the SEC on October 25, 2018, and is incorporated herein by reference thereto. |
| 10.37 | Agreement and Plan of Merger, dated November 8, 2018, by and among the Company, Sound Concepts, Inc., NF Merger Sub, Inc., NF Acquisition Company, LLC, the shareholders of Sound Concepts, Inc., and the shareholders' representative, which was filed as Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on November 14, 2018, and is incorporated herein by reference thereto. |

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| 10.38 | Letter Agreement dated November 8, 2018, by and among the Company, Sound Concepts, Inc., NF Merger Sub, Inc., NF Acquisition Company, LLC, the shareholders of Sound Concepts, Inc., and the shareholders' representative, which was filed as Exhibit 10.2 to our Current Report on Form 8-K filed with the SEC on November 14, 2018, and is incorporated herein by reference thereto. |
| 10.39 | Letter Agreement dated November 12, 2018, by and among the Company, Sound Concepts, Inc., NF Merger Sub, Inc., NF Acquisition Company, LLC, the shareholders of Sound Concepts, Inc., and the shareholders' representative, which was filed as Exhibit 10.2 to our Current Report on Form 8-K filed with the SEC on November 14, 2018, and is incorporated herein by reference thereto. |
| 10.40* | Securities Purchase Agreement dated February 1, 2019 by and between the Company and Bellridge |
| 10.41* | Lock-Up Agreement dated October 30, 2018, by and between the Company and Ira Gaines. |
| 10.42* | Lock-Up Agreement dated October 30, 2018, by and between the Company and Gina Trippiedi |
| 10.43* | Partner Application Distribution Agreement dated February 4, 2019, by and between the Company and Salesforce.com. |
| 10.44* | Service Agreement dated December 21, 2018, by and between the Company and Major Tom |
| 14.1 | Code of Ethics and Business Conduct for Directors, Senior Officers and Employees of Corporation, which was filed as Exhibit 14.1 to our Current Report on Form 8-K filed with the SEC on October 22, 2014, and is incorporated herein by reference thereto. |
| 21.1* | Subsidiaries of the Registrant |
| 31.1* | Certification of Principal Executive Officer Pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934 |
| 31.2* | Certification of Principal Financial Officer and Principal Accounting Officer Pursuant to Rule 13a-14(a) of the Securities Act of 1934 |
| 32.1* | Certification of Principal Executive Officer, Principal Financial Officer and Principal Accounting Officer Pursuant to Section 1350 of Chapter 63 of Title 18 of the United States Code |
| 32.2* | Certification of Principal Financial Officer and Principal Accounting Officer Pursuant to Section 1350 of Chapter 63 of Title 18 of the United States Code |
| | |
| 101.INS* | XBRL Instance Document |
| 101.SCH* | XBRL Taxonomy Extension Schema |
| 101.CAL* | XBRL Taxonomy Extension Calculation Linkbase |
| 101.DEF* | XBRL Taxonomy Extension Definition Linkbase |
| 101.LAB* | XBRL Taxonomy Extension Label Linkbase |
| 101.PRE* | XBRL Taxonomy Extension Presentation Linkbase |

* Filed herewith.

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

**Verb Technology Company, Inc.**

By: */s/ Rory J. Cutaia*
Rory J. Cutaia
President, Chief Executive Officer, Secretary,
and Director
(Principal Executive Officer)

Date: February 7, 2019

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

By: */s/ Rory J. Cutaia*
Rory J. Cutaia
President, Chief Executive Officer, Secretary,
Treasurer and Director

Date: February 7, 2019

By: */s/ James P. Geiskopf*
James P. Geiskopf
Director

Date: February 7, 2019

By: */s/ Jeff Clayborne*
Jeff Clayborne
Chief Financial Officer

Date: February 7, 2019

By: */s/ Philip J. Bond*
Philip J. Bond
Director

Date: February 7, 2019

By: */s/ Kenneth S. Cragun*
Kenneth S. Cragun
Director

Date: February 7, 2019

BARBARA K. CEGAVSKE
Secretary of State
202 North Carson Street
Carson City, Nevada 89701-4201
(775) 684-5708
Website: www.nvsos.gov

*050303*

| Filed in the office of | Document Number |
|---|---|
| Barbara K. Cegavske<br>Secretary of State<br>State of Nevada | 20190049055-85 |
| | Filing Date and Time<br>02/01/2019 8:00 AM |
| | Entity Number<br>E0609422012-3 |

# Certificate of Change Pursuant to NRS 78.209

USE BLACK INK ONLY - DO NOT HIGHLIGHT

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## Certificate of Change filed Pursuant to NRS 78.209
## For Nevada Profit Corporations

1. Name of corporation:

Verb Technology Company, Inc.

2. The board of directors have adopted a resolution pursuant to NRS 78.209 and have obtained any required approval of the stockholders.

3. The current number of authorized shares and the par value, if any, of each class or series, if any, of shares before the change:

200,000,000 shares of common stock with a par value of $0.0001 per share and 15,000,000 shares of preferred stock with a par value of $0.0001 per share

4. The number of authorized shares and the par value, if any, of each class or series, if any, of shares after the change:

200,000,000 shares of common stock with a par value of $0.0001 per share and 15,000,000 shares of preferred stock with a par value of $0.0001 per share

5. The number of shares of each affected class or series, if any, to be issued after the change in exchange for each issued share of the same class or series:

The corporation shall issue one (1) share of common stock for every fifteen (15) shares of common stock issued and outstanding immediately prior to the effective date of the stock split.

6. The provisions, if any, for the issuance of fractional shares, or for the payment of money or the issuance of scrip to stockholders otherwise entitled to a fraction of a share and the percentage of outstanding shares affected thereby:

See Attachment A attached hereto.

7. Effective date and time of filing: (optional) Date: February 1, 2019 Time: 11:59 PM

(must not be later than 90 days after the certificate is filed)

8. Signature: (required)

X _____

Signature of Officer

Chief Executive Officer & President

Title

**IMPORTANT:** Failure to include any of the above information and submit with the proper fees may cause this filing to be rejected.

*This form must be accompanied by appropriate fees.*

Nevada Secretary of State Stock Split
Revised: 1-5-15

**Attachment A to Verb Technology Company, Inc. Certificate of Change**

Item 6

Any fractional shares of Verb Technology Company, Inc. (the "Company") common stock resulting from the reverse stock split for any holder of the Company's common stock shall be rounded up to the next whole share.

*140105*
*140105*

BARBARA K. CEGAVSKE
Secretary of State
202 North Carson Street
Carson City, Nevada 89701-4201
(775) 684-5708
Website: www.nvsos.gov

| Filed in the office of | Document Number |
|---|---|
| Barbara K. Cegavske | 20190047792-61 |
| Secretary of State | Filing Date and Time |
| State of Nevada | 01/31/2019 2:42 PM |
| | Entity Number |
| | E0609422012-3 |

# Articles of Merger
(PURSUANT TO NRS 92A.200)
Page 1

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## Articles of Merger
## (Pursuant to NRS Chapter 92A)

**1) Name and jurisdiction of organization of each constituent entity (NRS 92A.200):**

☐ **If there are more than four merging entities, check box and attach an 8 1/2" x 11" blank sheet containing the required information for each additional entity from article one.**

Verb Technology Company, Inc.
Name of **merging** entity

Nevada — Jurisdiction
Corporation — Entity type *

Name of **merging** entity

Jurisdiction — Entity type *

Name of **merging** entity

Jurisdiction — Entity type *

Name of **merging** entity

Jurisdiction — Entity type *

and,

nFüsz, Inc.
Name of **surviving** entity

Nevada — Jurisdiction
Corporation — Entity type *

* Corporation, non-profit corporation, limited partnership, limited-liability company or business trust.

**Filing Fee: $350.00**

*This form must be accompanied by appropriate fees.*

BARBARA K. CEGAVSKE
Secretary of State
202 North Carson Street
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# Articles of Merger

(PURSUANT TO NRS 92A.200)

Page 2

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2) Forwarding address where copies of process may be sent by the Secretary of State of Nevada (If a foreign entity is the survivor in the merger - NRS 92A.190):

Attn:

c/o:

3) Choose one:

☐ The undersigned declares that a plan of merger has been adopted by each constituent entity (NRS 92A.200).

☒ The undersigned declares that a plan of merger has been adopted by the parent domestic entity (NRS 92A.180).

4) Owner's approval (NRS 92A.200) (options a, b or c must be used, as applicable, for each entity):

☐ If there are more than four merging entities, check box and attach an 8 1/2" x 11" blank sheet containing the required information for each additional entity from the appropriate section of article four.

(a) Owner's approval was not required from

Verb Technology Company, Inc.
Name of **merging** entity, if applicable

Name of **merging** entity, if applicable

Name of **merging** entity, if applicable

Name of **merging** entity, if applicable

and, or;

nFüsz, Inc.
Name of **surviving** entity, if applicable

*This form must be accompanied by appropriate fees.*

BARBARA K. CEGAVSKE
Secretary of State
202 North Carson Street
Carson City, Nevada 89701-4201
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# Articles of Merger

(PURSUANT TO NRS 92A.200)

Page 3

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(b) The plan was approved by the required consent of the owners of *:

Name of **merging** entity, if applicable

Name of **merging** entity, if applicable

Name of **merging** entity, if applicable

Name of **merging** entity, if applicable

and, or;

Name of **surviving** entity, if applicable

* Unless otherwise provided in the certificate of trust or governing instrument of a business trust, a merger must be approved by all the trustees and beneficial owners of each business trust that is a constituent entity in the merger.

*This form must be accompanied by appropriate fees.*

BARBARA K. CEGAVSKE
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# Articles of Merger

(PURSUANT TO NRS 92A.200)

Page 4

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(c) Approval of plan of merger for Nevada non-profit corporation (NRS 92A.160):

The plan of merger has been approved by the directors of the corporation and by each public officer or other person whose approval of the plan of merger is required by the articles of incorporation of the domestic corporation.

Name of **merging** entity, if applicable

Name of **merging** entity, if applicable

Name of **merging** entity, if applicable

Name of **merging** entity, if applicable

and, or;

Name of **surviving** entity, if applicable

*This form must be accompanied by appropriate fees.*

BARBARA K. CEGAVSKE
Secretary of State
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Carson City, Nevada 89701-4201
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# Articles of Merger

(PURSUANT TO NRS 92A.200)

Page 5

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**5) Amendments, if any, to the articles or certificate of the surviving entity. Provide article numbers, if available. (NRS 92A.200)*:**

"1. Name of Corporation: Verb Technology Company, Inc."

**6) Location of Plan of Merger (check a or b):**

☐ (a) The entire plan of merger is attached;

or,

☒ (b) The entire plan of merger is on file at the registered office of the surviving corporation, limited-liability company or business trust, or at the records office address if a limited partnership, or other place of business of the surviving entity (NRS 92A.200).

**7) Effective date and time of filing: (optional) (must not be later than 90 days after the certificate is filed)**

**Date:** February 1, 2018 **Time:** 11:55 PM

* Amended and restated articles may be attached as an exhibit or integrated into the articles of merger. Please entitle them "Restated" or "Amended and Restated," accordingly. The form to accompany restated articles prescribed by the secretary of state must accompany the amended and/or restated articles. Pursuant to NRS 92A.180 (merger of subsidiary into parent - Nevada parent owning 90% or more of subsidiary), the articles of merger may not contain amendments to the constituent documents of the surviving entity except that the name of the surviving entity may be changed.

*This form must be accompanied by appropriate fees.*

BARBARA K. CEGAVSKE
Secretary of State
202 North Carson Street
Carson City, Nevada 89701-4201
(775) 684-5708
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# Articles of Merger

(PURSUANT TO NRS 92A.200)

Page 6

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8) Signatures - Must be signed by: An officer of each Nevada corporation; All general partners of each Nevada limited partnership; All general partners of each Nevada limited-liability limited partnership; A manager of each Nevada limited-liability company with managers or one member if there are no managers; A trustee of each Nevada business trust (NRS 92A.230)*

☐ If there are more than four merging entities, check box and attach an 8 1/2" x 11" blank sheet containing the required information for each additional entity from article eight.

Verb Technology Company, Inc.
Name of merging entity

X _____ Chief Executive Officer | 1/31/2019
Signature | Title | Date

Name of merging entity

X _____ | | |
Signature | Title | Date

Name of merging entity

X _____ | | |
Signature | Title | Date

Name of merging entity

X _____ | | |
Signature | Title | Date

and,

nFlisz, Inc.
Name of surviving entity

X _____ Chief Executive Officer |
Signature | Title | Date

* The articles of merger must be signed by each foreign constituent entity in the manner provided by the law governing it (NRS 92A.230). Additional signature blocks may be added to this page or as an attachment, as needed.

**IMPORTANT:** Failure to include any of the above information and submit with the proper fees may cause this filing to be rejected.

*This form must be accompanied by appropriate fees.*

NEITHER THIS SECURITY NOR THE SECURITIES INTO WHICH THIS SECURITY IS CONVERTIBLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY AND THE SECURITIES ISSUABLE UPON CONVERSION OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY SUCH SECURITIES.

Original Issue Date: October 30, 2018

Principal Amount: $350,000
Purchase Price: $350,000

**CONVERTIBLE PROMISSORY NOTE**
**DUE APRIL 29, 2019**

This CONVERTIBLE PROMISSORY NOTE is a duly authorized and validly issued obligation of nFüsz, Inc., a Nevada corporation (the "Company"), having its principal place of business at 344 S. Hauser Blvd., Suite 414, Los Angeles, California 90036, designated as its 5% Convertible Promissory Note due April 29, 2019 (the "Note").

FOR VALUE RECEIVED, the Company promises to pay to _____ or its registered assigns (the "Holder"), or shall have paid pursuant to the terms hereunder, the principal sum of three hundred fifty thousand and no/100ths dollars ($350,000.00) and all Interest accrued on such principal sum on April 29, 2019 (the "Maturity Date") or such earlier date as this Note is required to be repaid as provided hereunder. This Note is subject to the following additional provisions:

Section 1. Definitions. For the purposes hereof, in addition to the terms defined elsewhere in this Note, the following terms shall have the following meanings:

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 under the Securities Act.

"Bankruptcy Event" means any of the following events: (a) the Company commences a case or other proceeding under any bankruptcy, reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction relating to the Company, (b) there is commenced against the Company any such case or proceeding that is not dismissed within sixty (60) days after commencement, (c) the Company is adjudicated insolvent or bankrupt or any order of relief or other order approving any such case or proceeding is entered, (d) the Company suffers any appointment of any custodian or the like for it or any substantial part of its property that is not discharged or stayed within sixty (60) calendar days after such appointment, (e) the Company makes a general assignment for the benefit of creditors, (f) the Company calls a meeting of its creditors with a view to arranging a composition, adjustment or restructuring of its debts, (g) the Company admits in writing that it is generally unable to pay its debts as they become due, (h) the Company, by any act or failure to act, expressly indicates its consent to, approval of or acquiescence in any of the foregoing or takes any corporate or other action for the purpose of effecting any of the foregoing.

"Business Day" means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which the Federal Reserve Bank of San Francisco is closed.

"California Courts" shall have the meaning set forth in Section 7(d).

"Conversion Shares" means, collectively, the shares of Common Stock issuable upon conversion of this Note in accordance with the terms hereof.

"Event of Default" shall have the meaning set forth in Section 6(a).

"Mandatory Conversion" shall have the meaning ascribed to such term in Section 2.

"Note Register" means the records of the Company regarding registration and transfers of this Note.

"Original Issue Date" means the date of this Note.

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof), or other entity of any kind.

"Public Offering" means the contemplated underwritten public offering of Common Stock pursuant to the registration statement on Form S-1 (File No. 333-226840), filed with the Commission on August 14, 2018.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Trading Day" means a day on which the principal Trading Market is open for trading.

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the NYSE American, the New York Stock Exchange or any level of the OTC Markets operated by OTC Markets Group Inc. (or any successors to any of the foregoing).

Section 2. Mandatory Conversion. During the term of the Note, upon the Company's consummation of the Public Offering, all, and not less than all, of (i) the principal and (ii) the accrued interest hereunder shall be converted into shares of the Company's common stock (the "Conversion Shares") that shall have been registered therein (the "Mandatory Conversion"). The number of Conversion Shares issuable upon the Mandatory Conversion shall be determined by the quotient obtained by dividing (x) the entire outstanding principal amount of this Note and all accrued and unpaid interest thereof to be converted by (y) the per-share Conversion Price. The per-share Conversion Price shall be seventy-five percent (75%) of the offering price of the Common Stock, as reflected on the cover of the definitive prospectus that the Company shall file with the Securities and Exchange Commission upon its acceleration of effectiveness of the Public Offering. The "Conversion Shares" shall be delivered to the Holder contemporaneously with the delivery by the underwriter of the other shares of Common stock that were sold in the Public Offering.

Section 3. Registration of Transfers and Exchanges.

a) Different Denominations. This Note is exchangeable for an equal aggregate principal amount of Notes of different authorized denominations, as requested by the Holder surrendering the same. No service charge will be payable for such registration of transfer or exchange.

b) Investment Representations. This Note has been issued subject to the original Holder representing that it is an accredited investor and that it is not acquiring this Note with the intention of distributing same. The original Holder acknowledges that any or all of this Note may be transferred or exchanged only in compliance with applicable federal and state securities laws and regulations.

c) Reliance on Note Register. Prior to due presentment for transfer to the Company of this Note, the Company and any agent of the Company may treat the Person in whose name this Note is duly registered on the Note Register as the owner hereof for the purpose of receiving payment or in respect of the Mandatory Conversion hereof as herein provided and for all other purposes, whether or not this Note is overdue, and neither the Company nor any such agent shall be affected by notice to the contrary.

Section 4. Interest. Interest shall accrue on the unpaid principal balance of the Promissory Note at the rate of five percent (5%) per annum (simple) ("Interest"). Interest shall accrue and be payable only on the Maturity Date, as set forth above.

Section 5. Reserved.

Section 6. Events of Default.

a) "Event of Default" means, wherever used herein, any of the following events (whatever the reason for such event and whether such event shall be voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree, or order of any court, or any order, rule, or regulation of any administrative or governmental body):

i. any default in the payment of the principal amount of this Note or accrued and unpaid Interest owing to a Holder on this Note, as and when the same shall become due and payable, which default is not cured within fifteen (15) calendar days thereof;

ii. the Company shall fail to observe or perform any other covenant, obligation, or agreement contained in this Note (other than a breach by the Company of its obligations to deliver shares of Common Stock to the Holder upon the Mandatory Conversion in connection with Section 2, above), which failure is not cured, if possible to cure, within fifteen (15) calendar days;

iii. any representation or warranty made in this Note, any written statement pursuant hereto or any other report, financial statement, or certificate made or delivered to the Holder in connection herewith shall be untrue or incorrect in any material respect as of the date when made or deemed made;

iv. the Company shall be subject to a Bankruptcy Event;

v. the Company shall: (a) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of it or any of its properties, (b) admit in writing its inability to pay its debts as they mature, (c) make a general assignment for the benefit of creditors, (d) be adjudicated a bankrupt or be the subject of an order for relief under Title 11 of the United States Code or any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution, or liquidation law or statute of any other jurisdiction or foreign country, or (e) file a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage or any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution, or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law, or (f) take or permit to be taken any action in furtherance of or for the purpose of effecting any of the foregoing; or

vi. if any order, judgment, or decree shall be entered, without the application, approval, or consent of the Company, by any court of competent jurisdiction, approving a petition seeking liquidation or reorganization of the Company, or appointing a receiver, trustee, custodian, or liquidator of the Company, or of all or any substantial part of its assets, and such order, judgment or decree shall continue unstayed and in effect for any period of sixty (60) days;

b) Remedies Upon Event of Default. Upon the occurrence of an Event of Default that has not been cured in accordance with the terms hereof, the outstanding principal amount of this Note, and other amounts owing, such as Interest, in respect thereof through the date of notice of such an uncured Event of Default, shall become, at the Holder's election, immediately due and payable in cash.

Section 7. Miscellaneous.

a) Notices. Any and all notices or other communications or deliveries to be provided by the Holder hereunder shall be in writing and delivered personally, by facsimile, by email attachment, or sent by a nationally recognized overnight courier service, addressed to the Company, at the address set forth above, or such other facsimile number, email address, or address as the Company may specify for such purposes by notice to the Holder delivered in accordance with this Section 7(a). Any and all notices or other communications or deliveries to be provided by the Company hereunder shall be in writing and delivered personally, by facsimile, by email attachment, or sent by a nationally recognized overnight courier service addressed to the Holder at the facsimile number, email address, or address of the Holder appearing on the books of the Company, or, if no such facsimile number, email address, or address appears on the books of the Company, at the principal place of business of such Holder, as set forth herein below. Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of (i) the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or email attachment to the email address set forth on the signature pages attached hereto prior to 5:30 p.m. (Los Angeles City time) on any date, (ii) the next Trading Day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or email attachment to the email address set forth on the signature pages attached hereto on a day that is not a Trading Day or later than 5:30 p.m. (Los Angeles time) on any Trading Day, (iii) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given.

b) Absolute Obligation. Except as expressly provided herein, no provision of this Note shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and any other amounts due, as applicable, such as Interest on this Note at the time, place, and rate, and in the coin or currency, herein prescribed. This Note is a direct debt obligation of the Company.

c) Lost or Mutilated Note. If this Note shall be mutilated, lost, stolen or destroyed, the Company shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated Note, or in lieu of or in substitution for a lost, stolen or destroyed Note, a new Note for the principal amount of this Note so mutilated, lost, stolen or destroyed, but only upon receipt of evidence of such loss, theft or destruction of such Note, and of the ownership hereof, reasonably satisfactory to the Company.

d) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Note shall be governed by and construed and enforced in accordance with the internal laws of the State of California, without regard to the principles of conflict of laws thereof. Each party agrees that all legal proceedings concerning the interpretation, enforcement and defense of the transactions contemplated by this Note (whether brought against a party hereto or its respective Affiliates, directors, officers, shareholders, employees or agents) shall be commenced in the state and federal courts sitting in the City of Los Angeles, County of Los Angeles (the "California Courts"). Each party hereto hereby irrevocably submits to the exclusive jurisdiction of the California Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such California Courts, or such California Courts are improper or inconvenient venue for such proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Note and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by applicable law. Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Note or the transactions contemplated hereby. If any party shall commence an action or proceeding to enforce any provisions of this Note, then the prevailing party in such action or proceeding shall be reimbursed by the other party for its attorneys' fees and other costs and expenses incurred in the investigation, preparation, and prosecution of such action or proceeding.

e) Waiver. Any waiver by the Company or the Holder of a breach of any provision of this Note shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Note. The failure of the Company or the Holder to insist upon strict adherence to any term of this Note on one or more occasions shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Note on any other occasion. Any waiver by the Company or the Holder must be in writing.

f) Amendments. The prior written consent of the Holder and the Company shall be required for any change or amendment to the Note.

g) Severability. If any provision of this Note is invalid, illegal, or unenforceable, the balance of this Note shall remain in effect, and if any provision is inapplicable to any Person or circumstance, it shall nevertheless remain applicable to all other Persons and circumstances.

h) Remedies, Characterizations, Other Obligations, and Breaches. The remedies provided in this Note shall be cumulative and in addition to all other remedies available under this Note, and nothing herein shall limit the Holder's right to pursue actual and consequential damages for any failure by the Company to comply with the terms of this Note. The Company covenants to the Holder that there shall be no characterization concerning this instrument other than as expressly provided herein. Amounts set forth or provided for herein with respect to payments, conversion, and the like (and the computation thereof) shall be the amounts to be received by the Holder and shall not, except as expressly provided herein, be subject to any other obligation of the Company (or the performance thereof). The Company shall provide all information and documentation to the Holder that is requested by the Holder to enable the Holder to confirm the Company's compliance with the terms and conditions of this Note.

i) Next Business Day. Whenever any obligation hereunder shall be due on a day other than a Business Day, such obligation shall be satisfied on the next succeeding Business Day.

j) Headings. The headings contained herein are for convenience only, do not constitute a part of this Note and shall not be deemed to limit or affect any of the provisions hereof.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed by a duly authorized officer as of the date first above indicated.

**NFÜSZ, INC.**

By: _____
Name:
Title:

Facsimile No. for delivery of Notices: _____
Email address for delivery of Notices: _____

Accepted in accordance with its terms, as of this 30th day of October:

_____

Name: _____

Address:

_____

_____

Facsimile No. for delivery of Notices: _____

Email address for delivery of Notices: _____

NEITHER THIS SECURITY NOR THE SECURITIES INTO WHICH THIS SECURITY IS CONVERTIBLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY AND THE SECURITIES ISSUABLE UPON CONVERSION OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY SUCH SECURITIES.

Original Issue Date: October 30, 2018

Principal Amount: $50,000
Purchase Price: $50,000

**CONVERTIBLE PROMISSORY NOTE**
**DUE APRIL 29, 2019**

This CONVERTIBLE PROMISSORY NOTE is a duly authorized and validly issued obligation of nFüsz, Inc., a Nevada corporation (the "Company"), having its principal place of business at 344 S. Hauser Blvd., Suite 414, Los Angeles, California 90036, designated as its 5% Convertible Promissory Note due April 29, 2019 (the "Note").

FOR VALUE RECEIVED, the Company promises to pay to _____ or its registered assigns (the "Holder"), or shall have paid pursuant to the terms hereunder, the principal sum of fifty thousand and no/100ths dollars ($50,000.00) and all Interest accrued on such principal sum on April 29, 2019 (the "Maturity Date") or such earlier date as this Note is required to be repaid as provided hereunder. This Note is subject to the following additional provisions:

Section 1. Definitions. For the purposes hereof, in addition to the terms defined elsewhere in this Note, the following terms shall have the following meanings:

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 under the Securities Act.

"Bankruptcy Event" means any of the following events: (a) the Company commences a case or other proceeding under any bankruptcy, reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction relating to the Company, (b) there is commenced against the Company any such case or proceeding that is not dismissed within sixty (60) days after commencement, (c) the Company is adjudicated insolvent or bankrupt or any order of relief or other order approving any such case or proceeding is entered, (d) the Company suffers any appointment of any custodian or the like for it or any substantial part of its property that is not discharged or stayed within sixty (60) calendar days after such appointment, (e) the Company makes a general assignment for the benefit of creditors, (f) the Company calls a meeting of its creditors with a view to arranging a composition, adjustment or restructuring of its debts, (g) the Company admits in writing that it is generally unable to pay its debts as they become due, (h) the Company, by any act or failure to act, expressly indicates its consent to, approval of or acquiescence in any of the foregoing or takes any corporate or other action for the purpose of effecting any of the foregoing.

"Business Day" means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which the Federal Reserve Bank of San Francisco is closed.

"California Courts" shall have the meaning set forth in Section 7(d).

"Conversion Shares" means, collectively, the shares of Common Stock issuable upon conversion of this Note in accordance with the terms hereof.

"Event of Default" shall have the meaning set forth in Section 6(a).

"Mandatory Conversion" shall have the meaning ascribed to such term in Section 2.

"Note Register" means the records of the Company regarding registration and transfers of this Note.

"Original Issue Date" means the date of this Note.

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof), or other entity of any kind.

"Public Offering" means the contemplated underwritten public offering of Common Stock pursuant to the registration statement on Form S-1 (File No. 333-226840), filed with the Commission on August 14, 2018.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Trading Day" means a day on which the principal Trading Market is open for trading.

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the NYSE American, the New York Stock Exchange or any level of the OTC Markets operated by OTC Markets Group Inc. (or any successors to any of the foregoing).

Section 2. Mandatory Conversion. During the term of the Note, upon the Company's consummation of the Public Offering, all, and not less than all, of (i) the principal and (ii) the accrued interest hereunder shall be converted into shares of the Company's common stock (the "Conversion Shares") that shall have been registered therein (the "Mandatory Conversion"). The number of Conversion Shares issuable upon the Mandatory Conversion shall be determined by the quotient obtained by dividing (x) the entire outstanding principal amount of this Note and all accrued and unpaid interest thereof to be converted by (y) the per-share Conversion Price. The per-share Conversion Price shall be seventy-five percent (75%) of the offering price of the Common Stock, as reflected on the cover of the definitive prospectus that the Company shall file with the Securities and Exchange Commission upon its acceleration of effectiveness of the Public Offering. The "Conversion Shares" shall be delivered to the Holder contemporaneously with the delivery by the underwriter of the other shares of Common stock that were sold in the Public Offering.

Section 3. Registration of Transfers and Exchanges.

a) Different Denominations. This Note is exchangeable for an equal aggregate principal amount of Notes of different authorized denominations, as requested by the Holder surrendering the same. No service charge will be payable for such registration of transfer or exchange.

b) Investment Representations. This Note has been issued subject to the original Holder representing that it is an accredited investor and that it is not acquiring this Note with the intention of distributing same. The original Holder acknowledges that any or all of this Note may be transferred or exchanged only in compliance with applicable federal and state securities laws and regulations.

c) Reliance on Note Register. Prior to due presentment for transfer to the Company of this Note, the Company and any agent of the Company may treat the Person in whose name this Note is duly registered on the Note Register as the owner hereof for the purpose of receiving payment or in respect of the Mandatory Conversion hereof as herein provided and for all other purposes, whether or not this Note is overdue, and neither the Company nor any such agent shall be affected by notice to the contrary.

Section 4. Interest. Interest shall accrue on the unpaid principal balance of the Promissory Note at the rate of five percent (5%) per annum (simple) ("Interest"). Interest shall accrue and be payable only on the Maturity Date, as set forth above.

Section 5. Reserved.

Section 6. Events of Default.

a) "Event of Default" means, wherever used herein, any of the following events (whatever the reason for such event and whether such event shall be voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree, or order of any court, or any order, rule, or regulation of any administrative or governmental body):

i. any default in the payment of the principal amount of this Note or accrued and unpaid Interest owing to a Holder on this Note, as and when the same shall become due and payable, which default is not cured within fifteen (15) calendar days thereof;

ii. the Company shall fail to observe or perform any other covenant, obligation, or agreement contained in this Note (other than a breach by the Company of its obligations to deliver shares of Common Stock to the Holder upon the Mandatory Conversion in connection with Section 2, above), which failure is not cured, if possible to cure, within fifteen (15) calendar days;

iii. any representation or warranty made in this Note, any written statement pursuant hereto or any other report, financial statement, or certificate made or delivered to the Holder in connection herewith shall be untrue or incorrect in any material respect as of the date when made or deemed made;

iv. the Company shall be subject to a Bankruptcy Event;

v. the Company shall: (a) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of it or any of its properties, (b) admit in writing its inability to pay its debts as they mature, (c) make a general assignment for the benefit of creditors, (d) be adjudicated a bankrupt or be the subject of an order for relief under Title 11 of the United States Code or any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution, or liquidation law or statute of any other jurisdiction or foreign country, or (e) file a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage or any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution, or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law, or (f) take or permit to be taken any action in furtherance of or for the purpose of effecting any of the foregoing; or

vi. if any order, judgment, or decree shall be entered, without the application, approval, or consent of the Company, by any court of competent jurisdiction, approving a petition seeking liquidation or reorganization of the Company, or appointing a receiver, trustee, custodian, or liquidator of the Company, or of all or any substantial part of its assets, and such order, judgment or decree shall continue unstayed and in effect for any period of sixty (60) days;

b) Remedies Upon Event of Default. Upon the occurrence of an Event of Default that has not been cured in accordance with the terms hereof, the outstanding principal amount of this Note, and other amounts owing, such as Interest, in respect thereof through the date of notice of such an uncured Event of Default, shall become, at the Holder's election, immediately due and payable in cash.

Section 7. Miscellaneous.

a) Notices. Any and all notices or other communications or deliveries to be provided by the Holder hereunder shall be in writing and delivered personally, by facsimile, by email attachment, or sent by a nationally recognized overnight courier service, addressed to the Company, at the address set forth above, or such other facsimile number, email address, or address as the Company may specify for such purposes by notice to the Holder delivered in accordance with this Section 7(a). Any and all notices or other communications or deliveries to be provided by the Company hereunder shall be in writing and delivered personally, by facsimile, by email attachment, or sent by a nationally recognized overnight courier service addressed to the Holder at the facsimile number, email address, or address of the Holder appearing on the books of the Company, or, if no such facsimile number, email address, or address appears on the books of the Company, at the principal place of business of such Holder, as set forth herein below. Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of (i) the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or email attachment to the email address set forth on the signature pages attached hereto prior to 5:30 p.m. (Los Angeles City time) on any date, (ii) the next Trading Day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or email attachment to the email address set forth on the signature pages attached hereto on a day that is not a Trading Day or later than 5:30 p.m. (Los Angeles time) on any Trading Day, (iii) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given.

b) Absolute Obligation. Except as expressly provided herein, no provision of this Note shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and any other amounts due, as applicable, such as Interest on this Note at the time, place, and rate, and in the coin or currency, herein prescribed. This Note is a direct debt obligation of the Company.

c) Lost or Mutilated Note. If this Note shall be mutilated, lost, stolen or destroyed, the Company shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated Note, or in lieu of or in substitution for a lost, stolen or destroyed Note, a new Note for the principal amount of this Note so mutilated, lost, stolen or destroyed, but only upon receipt of evidence of such loss, theft or destruction of such Note, and of the ownership hereof, reasonably satisfactory to the Company.

d) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Note shall be governed by and construed and enforced in accordance with the internal laws of the State of California, without regard to the principles of conflict of laws thereof. Each party agrees that all legal proceedings concerning the interpretation, enforcement and defense of the transactions contemplated by this Note (whether brought against a party hereto or its respective Affiliates, directors, officers, shareholders, employees or agents) shall be commenced in the state and federal courts sitting in the City of Los Angeles, County of Los Angeles (the "California Courts"). Each party hereto hereby irrevocably submits to the exclusive jurisdiction of the California Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such California Courts, or such California Courts are improper or inconvenient venue for such proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Note and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by applicable law. Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Note or the transactions contemplated hereby. If any party shall commence an action or proceeding to enforce any provisions of this Note, then the prevailing party in such action or proceeding shall be reimbursed by the other party for its attorneys' fees and other costs and expenses incurred in the investigation, preparation, and prosecution of such action or proceeding.

e) Waiver. Any waiver by the Company or the Holder of a breach of any provision of this Note shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Note. The failure of the Company or the Holder to insist upon strict adherence to any term of this Note on one or more occasions shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Note on any other occasion. Any waiver by the Company or the Holder must be in writing.

f) Amendments. The prior written consent of the Holder and the Company shall be required for any change or amendment to the Note.

g) Severability. If any provision of this Note is invalid, illegal, or unenforceable, the balance of this Note shall remain in effect, and if any provision is inapplicable to any Person or circumstance, it shall nevertheless remain applicable to all other Persons and circumstances.

h) Remedies, Characterizations, Other Obligations, and Breaches. The remedies provided in this Note shall be cumulative and in addition to all other remedies available under this Note, and nothing herein shall limit the Holder's right to pursue actual and consequential damages for any failure by the Company to comply with the terms of this Note. The Company covenants to the Holder that there shall be no characterization concerning this instrument other than as expressly provided herein. Amounts set forth or provided for herein with respect to payments, conversion, and the like (and the computation thereof) shall be the amounts to be received by the Holder and shall not, except as expressly provided herein, be subject to any other obligation of the Company (or the performance thereof). The Company shall provide all information and documentation to the Holder that is requested by the Holder to enable the Holder to confirm the Company's compliance with the terms and conditions of this Note.

i) Next Business Day. Whenever any obligation hereunder shall be due on a day other than a Business Day, such obligation shall be satisfied on the next succeeding Business Day.

j) Headings. The headings contained herein are for convenience only, do not constitute a part of this Note and shall not be deemed to limit or affect any of the provisions hereof.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed by a duly authorized officer as of the date first above indicated.

**NFÜSZ, INC.**

By: _____
Name:
Title:

Facsimile No. for delivery of Notices: _____
Email address for delivery of Notices: _____

Accepted in accordance with its terms, as of this 30th day of October:

_____
Name: _____
Address:

_____

_____

Facsimile No. for delivery of Notices: _____

Email address for delivery of Notices: _____

NEITHER THIS SECURITY NOR THE SECURITIES INTO WHICH THIS SECURITY IS CONVERTIBLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY AND THE SECURITIES ISSUABLE UPON CONVERSION OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY SUCH SECURITIES.

Original Issue Date: February 1, 2019

Principal Amount: $500,000
Purchase Price: $475,000

**5% ORIGINAL ISSUE DISCOUNT PROMISSORY NOTE**
**DUE AUGUST 1, 2019**

This 5% ORIGINAL ISSUE DISCOUNT PROMISSORY NOTE is one of a series of duly authorized and validly issued 5% ORIGINAL ISSUE DISCOUNT PROMISSORY NOTES of Verb Technology Company, Inc., a Nevada corporation formerly known as nFüsz, Inc. (the " Company"), having its principal place of business at 344 S. Hauser Blvd., Suite 414, Los Angeles, California 90036, designated as its 5% Original Issue Discount Convertible Promissory Note due August 1, 2019 (this Note, the "Note," and, collectively with the other Notes of such series, the "Notes").

FOR VALUE RECEIVED, the Company promises to pay to Bellridge Capital, LP or its registered assigns (the "Holder"), or shall have paid pursuant to the terms hereunder, the principal sum of $500,000 on August 1, 2019 (the " Maturity Date") or such earlier date as this Note is required or permitted to be repaid as provided hereunder. This Note is subject to the following additional provisions:

Section 1. Definitions. For the purposes hereof, in addition to the terms defined elsewhere in this Note, (a) capitalized terms not otherwise defined herein shall have the meanings set forth in the Purchase Agreement (as defined below) and (b) the following terms shall have the following meanings:

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 under the Securities Act.

"Alternate Consideration" shall have the meaning set forth in Section 5(e).

"Bankruptcy Event" means any of the following events: (a) the Company or any Significant Subsidiary (as such term is defined in Rule 1-02(w) of Regulation S-X) thereof commences a case or other proceeding under any bankruptcy, reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction relating to the Company or any Significant Subsidiary thereof, (b) there is commenced against the Company or any Significant Subsidiary thereof any such case or proceeding that is not dismissed within sixty (60) days after commencement, (c) the Company or any Significant Subsidiary thereof is adjudicated insolvent or bankrupt or any order of relief or other order approving any such case or proceeding is entered, (d) the Company or any Significant Subsidiary thereof suffers any appointment of any custodian or the like for it or any substantial part of its property that is not discharged or stayed within sixty (60) calendar days after such appointment, (e) the Company or any Significant Subsidiary thereof makes a general assignment for the benefit of creditors, (f) the Company or any Significant Subsidiary thereof calls a meeting of its creditors with a view to arranging a composition, adjustment or restructuring of its debts, (g) the Company or any Significant Subsidiary thereof admits in writing that it is generally unable to pay its debts as they become due, (h) the Company or any Significant Subsidiary thereof, by any act or failure to act, expressly indicates its consent to, approval of or acquiescence in any of the foregoing or takes any corporate or other action for the purpose of effecting any of the foregoing.

"Beneficial Ownership Limitation" shall have the meaning set forth in Section 4(d).

"Business Day" means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which the Federal Reserve Bank of New York is closed.

"Buy-In" shall have the meaning set forth in Section 4(c)(v).

"Change of Control Transaction" means the occurrence after the date hereof of any of (a) an acquisition after the date hereof by an individual or legal entity or "group" (as described in Rule 13d-5(b)(1) promulgated under the Exchange Act) of effective control (whether through legal or beneficial ownership of capital stock of the Company, by contract or otherwise) of in excess of 33% of the voting securities of the Company (other than by means of conversion of the Notes), (b) the Company merges into or consolidates with any other Person, or any Person merges into or consolidates with the Company and, after giving effect to such transaction, the stockholders of the Company immediately prior to such transaction own less than 50% of the aggregate voting power of the Company or the successor entity of such transaction, (c) the Company sells or transfers all or substantially all of its assets to another Person and the stockholders of the Company immediately prior to such transaction own less than 50% of the aggregate voting power of the acquiring entity immediately after the transaction, (d) a replacement at one time or within a one-year period of more than one-half (1/2) of the members of the Board of Directors which is not approved by a majority of those individuals who are members of the Board of Directors on the Original Issue Date (or by those individuals who are serving as members of the Board of Directors on any date whose nomination to the Board of Directors was approved by a majority of the members of the Board of Directors who are members on the Original Issue Date), or (e) the execution by the Company of an agreement to which the Company is a party or by which it is bound, providing for any of the events set forth in clauses (a) through (d) above.

"Conversion" shall have the meaning ascribed to such term in Section 4.

"Conversion Date" shall have the meaning set forth in Section 4(a).

"Conversion Price" shall have the meaning set forth in Section 4(b).

"Conversion Schedule" means the Conversion Schedule in the form of Schedule 1 attached hereto.

"Conversion Shares" means, collectively, the shares of Common Stock issuable upon conversion of this Note in accordance with the terms hereof.

"Event of Default" shall have the meaning set forth in Section 6(a).

"Exempt Issuance" means the issuance of (a) shares of Common Stock or options to employees, officers, directors, advisors or independent contractors of the Company pursuant to any stock or option plan duly adopted for such purpose, (b) shares of Common Stock, warrants or options to advisors or independent contractors of the Company for compensatory purposes, (c) securities upon the exercise or exchange of or conversion of any Securities issued under the Purchase Agreement and/or other securities exercisable or exchangeable for or convertible into shares of Common Stock issued and outstanding on the date hereof, provided that such securities have not been amended since the date hereof to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities, (d) securities issuable pursuant to any contractual anti-dilution obligations of the Company in effect as of the date hereof, provided that such obligations have not been materially amended since the date of hereof, and (e) securities issued pursuant to acquisitions or any other strategic transactions approved by the Board of Directors, provided that any such issuance shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities.

"Fundamental Transaction" shall have the meaning set forth in Section 5(e).

"Mandatory Default Amount" means the payment of one-hundred ten percent (110%) of the outstanding principal amount of this Note, in addition to the payment of all other amounts, costs, expenses and liquidated damages due in respect of this Note.

"New York Courts" shall have the meaning set forth in Section 7(d).

"Note Register" means the records of the Company regarding registration and transfers of this Note.

"Notice of Conversion" shall have the meaning set forth in Section 4(a).

"Original Issue Date" means the date of the first issuance of the Notes, regardless of any transfers of any Note and regardless of the number of instruments which may be issued to evidence such Notes.

"Mandatory Prepayment Date" shall have the meaning set forth in Section 2.

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"Purchase Agreement" means the Securities Purchase Agreement, dated the date hereof, by and among the Company and the original Holder, as amended, modified or supplemented from time to time in accordance with its terms.

"Public Offering" means the contemplated underwritten public offering of Common Stock pursuant to the registration statement on Form S-1 (File No. 333-226840), as amended, filed initially with the Commission on August 14, 2018.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Share Delivery Date" shall have the meaning set forth in Section 4(c)(ii).

"Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Company's principal Trading Market with respect to the Common Stock as in effect on the date of delivery of a Notice of Conversion.

"Successor Entity" shall have the meaning set forth in Section 5(e).

"Trading Day" means a day on which the principal Trading Market is open for trading.

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the NYSE American, the New York Stock Exchange or any level of the OTC Markets operated by OTC Markets Group Inc. (or any successors to any of the foregoing).

"VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported in the "Pink Sheets" published by OTC Markets Group, Inc. (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holder and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

Section 2. Mandatory Prepayment. During the term of the Note, in the event that the Company consummates the Public Offering, within three (3) Business Days after the closing of the Public Offering (the "Mandatory Prepayment Date"), the Company shall make payment to the Holder of an amount in cash equal to the then outstanding principal amount of the Note.

Section 3. Registration of Transfers and Exchanges.

a) Different Denominations. This Note is exchangeable for an equal aggregate principal amount of Notes of different authorized denominations, as requested by the Holder surrendering the same. No service charge will be payable for such registration of transfer or exchange.

b) Investment Representations. This Note has been issued subject to certain investment representations of the original Holder set forth in the Purchase Agreement and may be transferred or exchanged only in compliance with the Purchase Agreement and applicable federal and state securities laws and regulations.

c) Reliance on Note Register. Prior to due presentment for transfer to the Company of this Note, the Company and any agent of the Company may treat the Person in whose name this Note is duly registered on the Note Register as the owner hereof for the purpose of receiving payment as herein provided and for all other purposes, whether or not this Note is overdue, and neither the Company nor any such agent shall be affected by notice to the contrary.

Section 4. Conversion.

a) Voluntary Conversion. At any time on or after the occurrence of an Event of Default that has not been cured in accordance with Section 6 hereof until this Note is no longer outstanding, this Note shall be convertible at the Mandatory Default Amount, in whole or in part subject to the terms of Section 6(b) hereof, into shares of Common Stock, at the option of the Holder, at any time and from time to time (subject to the conversion limitations set forth in Section 4(d) hereof). The Holder shall effect conversions by delivering to the Company a Notice of Conversion, the form of which is attached hereto as Annex A (each, a "Notice of Conversion"), specifying therein the principal amount of this Note to be converted and the date on which such conversion shall be effected (such date, the "Conversion Date"). If no Conversion Date is specified in a Notice of Conversion, the Conversion Date shall be the date that such Notice of Conversion is deemed delivered hereunder. No ink-original Notice of Conversion shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Conversion form be required. To effect conversions hereunder, the Holder shall not be required to physically surrender this Note to the Company unless the entire principal amount of this Note has been so converted. Conversions hereunder shall have the effect of lowering the outstanding principal amount of this Note in an amount equal to the applicable conversion. The Holder and the Company shall maintain a Conversion Schedule showing the principal amount(s) converted and the date of such conversion(s). The Company may deliver an objection to any Notice of Conversion within one (1) Business Day of delivery of such Notice of Conversion. In the event of any dispute or discrepancy, the records of the Holder shall be controlling and determinative in the absence of manifest error. **The Holder, and any assignee by acceptance of this Note, acknowledge and agree that, by reason of the provisions of this paragraph, following conversion of a portion of this Note, the unpaid and unconverted principal amount of this Note may be less than the amount stated on the face hereof.**

b) Conversion Price. The conversion price in effect on any Conversion Date shall be a price equal to 70% of the lowest VWAP during the ten (10) Trading Days immediately preceding the date of the Notice of Conversion**,** subject to adjustment herein (the "Conversion Price"). Nothing herein shall limit the Holder's right to pursue actual damages or declare an Event of Default pursuant to Section 6 hereof and the Holder shall have the right to pursue all remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief. The exercise of any such rights shall not prohibit the Holder from seeking to enforce damages pursuant to any other Section hereof or under applicable law.

c) Mechanics of Conversion.

i. Conversion Shares Issuable Upon Conversion of Principal Amount. The number of Conversion Shares issuable upon a conversion hereunder shall be determined by the quotient obtained by dividing (x) the outstanding principal amount of this Note to be converted plus any other amounts due thereon by (y) the Conversion Price.

ii. Delivery of Conversion Shares Upon Conversion. Not later than the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period after each Conversion Date (the "Share Delivery Date"), the Company shall deliver, or cause to be delivered, to the Holder (A) a certificate or certificates representing the Conversion Shares which, on or after the date on which such Conversion Shares are eligible to be sold under Rule 144 without the need for current public information and the Company has received an opinion of counsel to such effect, which such opinion must be acceptable to the Holder in its sole and absolute discretion (which opinion the Company shall be responsible for obtaining at its sole cost and expense) shall be free of restrictive legends and trading restrictions, representing the number of Conversion Shares being acquired upon the conversion of this Note. All certificate or certificates required to be delivered by the Company under this Section 4(c) shall be delivered electronically through the Depository Trust Company or another established clearing corporation performing similar functions. If the Conversion Date is prior to the date on which such Conversion Shares are eligible to be sold under Rule 144 without the need for current public information, or there is no registration statement in effect covering the Conversion Shares, the Conversion Shares shall bear a restrictive legend in the following form, as appropriate:

**"THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) AN OPINION OF COUNSEL (WHICH COUNSEL SHALL BE SELECTED BY THE COMPANY), IN A GENERALLY ACCEPTABLE FORM, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) UNLESS SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY SUCH SECURITIES."**

Notwithstanding the foregoing, commencing on such date that the Conversion Shares are eligible for sale under Rule 144 subject to current public information requirements, the Company, upon request and at the sole cost and expense of the Company, shall obtain a legal opinion that is acceptable to the Holder in its sole and absolute discretion, to allow for such sales under Rule 144.

iii. Failure to Deliver Conversion Shares. If, in the case of any Notice of Conversion, such Conversion Shares are not delivered to or as directed by the applicable Holder by the Share Delivery Date, the Holder shall be entitled to elect by written notice to the Company at any time on or before its receipt of such Conversion Shares, to rescind such Conversion, in which event the Company shall promptly return to the Holder any original Note delivered to the Company and the Holder shall promptly return to the Company the Conversion Shares issued to such Holder pursuant to the rescinded Notice of Conversion.

iv. Obligation Absolute; Partial Liquidated Damages. The Company's obligations to issue and deliver the Conversion Shares upon conversion of this Note in accordance with the terms hereof are absolute and unconditional, irrespective of any action or inaction by the Holder to enforce the same, any waiver or consent with respect to any provision hereof, the recovery of any judgment against any Person or any action to enforce the same, or any setoff, counterclaim, recoupment, limitation or termination, or any breach or alleged breach by the Holder or any other Person of any obligation to the Company or any violation or alleged violation of law by the Holder or any other Person, and irrespective of any other circumstance which might otherwise limit such obligation of the Company to the Holder in connection with the issuance of such Conversion Shares; provided, however, that such delivery shall not operate as a waiver by the Company of any such action the Company may have against the Holder. In the event the Holder of this Note shall elect to convert any or all of the outstanding principal amount hereof, the Company may not refuse conversion based on any claim that the Holder or anyone associated or affiliated with the Holder has been engaged in any violation of law, agreement or for any other reason, unless an injunction from a court, on notice to Holder, restraining and or enjoining conversion of all or part of this Note shall have been sought and obtained, and the Company posts a surety bond for the benefit of the Holder in the amount of 150% of the value of the principal amount of this Note that underlie the relevant Conversion Shares, which is subject to the injunction, which bond shall remain in effect until the completion of arbitration/litigation of the underlying dispute and the proceeds of which shall be payable to the Holder to the extent it obtains judgment. In the absence of such injunction, the Company shall issue Conversion Shares or, if applicable, cash, upon a properly noticed conversion. If the Company fails for any reason to deliver to the Holder such Conversion Shares pursuant to Section 4(c)(ii) by the Share Delivery Date, the Company shall pay to the Holder, in cash, as liquidated damages and not as a penalty, for each $1,000 of principal amount being converted, $10 per Trading Day (increasing to $20 per Trading Day on the fifth (5th) Trading Day after such liquidated damages begin to accrue) for each Trading Day after such Share Delivery Date until such Conversion Shares are delivered or the Holder rescinds such Conversion. Nothing herein shall limit a Holder's right to pursue actual damages or declare an Event of Default pursuant to Section 6 hereof for the Company's failure to deliver Conversion Shares within the period specified herein and the Holder shall have the right to pursue all remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief. The exercise of any such rights shall not prohibit the Holder from seeking to enforce damages pursuant to any other Section hereof or under applicable law.

v. Compensation for Buy-In on Failure Timely to Deliver Conversion Shares Upon Conversion. In addition to any other rights available to the Holder, if the Company fails for any reason to deliver to the Holder such Conversion Shares by the Share Delivery Date pursuant to Section 4(c)(ii), and if after such Share Delivery Date the Holder is required by its brokerage firm to purchase (in an open market transaction or otherwise), or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Conversion Shares which the Holder was entitled to receive upon the conversion relating to such Share Delivery Date (a "Buy-In"), then the Company shall (A) pay in cash to the Holder (in addition to any other remedies available to or elected by the Holder) the amount, if any, by which (x) the Holder's total purchase price (including any brokerage commissions) for the Common Stock so purchased exceeds (y) the product of (1) the aggregate number of shares of Common Stock that the Holder was entitled to receive from the conversion at issue multiplied by (2) the actual sale price at which the sell order giving rise to such purchase obligation was executed (including any brokerage commissions) and (B) at the option of the Holder, either reissue (if surrendered) this Note in a principal amount equal to the principal amount of the attempted conversion (in which case such conversion shall be deemed rescinded) or deliver to the Holder the number of shares of Common Stock that would have been issued if the Company had timely complied with its delivery requirements under Section 4(c)(ii). For example, if the Holder purchases Common Stock having a total purchase price of $11,000 to cover a Buy-In with respect to an attempted conversion of this Note with respect to which the actual sale price of the Conversion Shares (including any brokerage commissions) giving rise to such purchase obligation was a total of $10,000 under clause (A) of the immediately preceding sentence, the Company shall be required to pay the Holder $1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver Conversion Shares upon conversion of this Note as required pursuant to the terms hereof.

vi. Reservation of Shares Issuable Upon Conversion. On or after the occurrence of an Event of Default, the Company covenants that it will at all times reserve and keep available out of its authorized and unissued shares of Common Stock a number of shares of Common Stock at least equal to 200% of the Required Minimum for the sole purpose of issuance upon conversion of this Note, each as herein provided, free from preemptive rights or any other actual contingent purchase rights of Persons other than the Holder. The Company covenants that all shares of Common Stock that shall be so issuable shall, upon issue, be duly authorized, validly issued, fully paid and nonassessable.

vii. Fractional Shares. No fractional shares or scrip representing fractional shares shall be issued upon the conversion of this Note. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such conversion, the Company shall at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Conversion Price or round up to the next whole share.

viii. Transfer Taxes and Expenses. The issuance of Conversion Shares on conversion of this Note shall be made without charge to the Holder hereof for any documentary stamp or similar taxes that may be payable in respect of the issue or delivery of such Conversion Shares, provided that the Company shall not be required to pay any tax that may be payable in respect of any transfer involved in the issuance and delivery of any such Conversion Shares upon conversion in a name other than that of the Holder of this Note so converted and the Company shall not be required to issue or deliver such Conversion Shares unless or until the Person or Persons requesting the issuance thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Conversion and all fees to the Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Conversion Shares.

d) Holder's Conversion Limitations. The Company shall not effect any conversion of this Note, and a Holder shall not have the right to convert any portion of this Note, to the extent that after giving effect to the conversion set forth on the applicable Notice of Conversion, the Holder (together with the Holder's Affiliates and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates (such Persons, "Attribution Parties")) would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and the Attribution Parties shall include the number of shares of Common Stock issuable upon conversion of this Note with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which are issuable upon (i) conversion of the remaining, unconverted principal amount of this Note beneficially owned by the Holder or any Attribution Parties and (ii) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company subject to a limitation on conversion or exercise analogous to the limitation contained herein (including, without limitation, any other Notes) beneficially owned by the Holder or any Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 4(d), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. To the extent that the limitation contained in this Section 4(d) applies, the determination of whether this Note is convertible (in relation to other securities owned by the Holder together with any Attribution Parties) and of which principal amount of this Note is convertible shall be in the sole discretion of the Holder, and the submission of a Notice of Conversion shall be deemed to be the Holder's determination of whether this Note may be converted (in relation to other securities owned by the Holder together with any Attribution Parties) and which principal amount of this Note is convertible, in each case subject to the Beneficial Ownership Limitation. To ensure compliance with this restriction, the Holder will be deemed to represent to the Company each time it delivers a Notice of Conversion that such Notice of Conversion has not violated the restrictions set forth in this paragraph and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 4(d), in determining the number of outstanding shares of Common Stock, the Holder may rely on the number of outstanding shares of Common Stock as stated in the most recent of the following: (i) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (ii) a more recent public announcement by the Company, or (iii) a more recent written notice by the Company or the Company's transfer agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within one (1) Trading Day confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Note, by the Holder or the Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 4.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon conversion of this Note held by the Holder. The Holder, upon notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 4(d), provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon conversion of this Note held by the Holder and the Beneficial Ownership Limitation provisions of this Section 4(d) shall continue to apply. Any increase or decrease in the Beneficial Ownership Limitation will not be effective until the 61st day after such notice is delivered to the Company. The Beneficial Ownership Limitation provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 4(d) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation contained herein or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Note.

Section 5. Certain Adjustments.

a) Stock Dividends and Stock Splits. If the Company, at any time while this Note is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions payable in shares of Common Stock on shares of Common Stock or any Common Stock Equivalents (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon conversion of the Notes), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of a reverse stock split) outstanding shares of Common Stock into a smaller number of shares or (iv) issues, in the event of a reclassification of shares of the Common Stock, any shares of capital stock of the Company, then the Conversion Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding any treasury shares of the Company) outstanding immediately before such event, and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to this Section shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b ) Most Favored Nation Status. If, at any time while this Note is outstanding, the Company issues or sells any shares of Common Stock, or securities convertible into or exercisable for shares of Common Stock, and if the Holder reasonably believes that the material terms and conditions appurtenant to such issuance or sale are more beneficial to the Holder than the terms and conditions contained herein, then, upon notice to the Company by the Holder within five (5) Trading Days after the Company's disclosure of such issuance or sale, the Company shall amend the terms hereof, as to the Holder to provide to Holder the benefit of such other material terms and conditions. Notwithstanding anything to the contrary contained herein, the provisions of this Section 5(b) are inapplicable at any time while this Note is outstanding in respect of any such issuance or sale to a Person who, as of the Original Issue Date, (i) is a record or beneficial holder of Common Stock or (ii) has a preexisting business or personal relationship with the Company's Chief Executive Officer, but is not a person or entity whose primary business is investing in securities. The provisions of this Section 5(b) are also inapplicable at any time while this Note is outstanding unless, during the period that commences with the Original Issue Date and concludes on the eight (8)-week anniversary thereof, (AA) the Agreement and Plan of Merger among the Company, its wholly-owned acquisition subsidiary, and Sound Concepts, Inc., has not been executed by all parties thereto; or (BB) the NASDAQ Stock Market LLC has tendered correspondence to the Company that provides, in pertinent part, that the Company's pending application for the listing of its Common Stock on The NASDAQ Capital Market, more likely than not, will not be approved; or (CC) A.G.P./Alliance Global Partners has informed the Company's Chief Executive Officer (verbally or in writing) that it is not confident that it will join in a request by the Company to the Securities and Exchange Commission for the Company's pending Registration Statement on Form S-1, Commission No. 333-226840. If any of such three itemized events shall occur during such eight (8)-week period, then the provisions of this Section 5(b) shall be fully applicable, except in respect of a sale or issuance of the type as set forth in the immediately preceding sentence.

c) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 5(a) above, during such time as this Note is convertible pursuant to Section 4 hereof, if at any time the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of this Note (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

d) Pro Rata Distributions. During such time as this Note is outstanding and convertible pursuant to Section 4 hereof, if the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Note, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Note (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, to the extent that the Holder's right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

e) Fundamental Transaction. If, at any time while this Note is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, (ii) the Company, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, or (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person whereby such other Person acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination) (each a "Fundamental Transaction"), then, upon any subsequent conversion of this Note, the Holder shall have the right to receive, for each Conversion Share that would have been issuable upon such conversion immediately prior to the occurrence of such Fundamental Transaction (without regard to any limitation in Section 4(d) on the conversion of this Note), the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Note is convertible immediately prior to such Fundamental Transaction (without regard to any limitation in Section 4(d) on the conversion of this Note). For purposes of any such conversion, the determination of the Conversion Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one (1) share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Conversion Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any conversion of this Note following such Fundamental Transaction. The Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Note and the other Transaction Documents (as defined in the Purchase Agreement) in accordance with the provisions of this Section 5(e) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the holder of this Note, deliver to the Holder in exchange for this Note a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Note which is convertible for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon conversion of this Note (without regard to any limitations on the conversion of this Note) prior to such Fundamental Transaction, and with a conversion price which applies the conversion price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such conversion price being for the purpose of protecting the economic value of this Note immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Note and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Note and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein. Notwithstanding anything to the contrary contained herein, the provisions of this Section 5(e) are inapplicable solely in respect of the closing of a business combination transaction (no matter the specific structure thereof) between the Company (or an Affiliate) and each of (X) Sound Concepts, Inc., (Y) an entity specifically known to the Company and its counsel as of the Original Issue Date, which entity utilizes its proprietary, patented, Artificial Intelligence-driven platform to support a significant number of smart TV ads, as well as content and commerce experiences for that entity's various partners, using that entity's platform-based SaaS solutions, and (Z) an entity specifically known to the Company and its counsel as of the Original Issue Date, which entity has developed an easy-to-use application for freelancers and entrepreneurs to create websites to grow their respective audiences and clients.

f) Calculations. All calculations under this Section 5 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 5, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding any treasury shares of the Company) issued and outstanding.

g) Notice to the Holder.

i. Adjustment to Conversion Price. Whenever the Conversion Price is adjusted pursuant to any provision of this Section 5, the Company shall promptly deliver to each Holder a notice setting forth the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment.

ii. Notice to Allow Conversion by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock of rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be filed at each office or agency maintained for the purpose of conversion of this Note, and shall cause to be delivered to the Holder at its last address as it shall appear upon the Note Register, at least twenty (20) calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange, provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to convert this Note during the 20-day period commencing on the date of such notice through the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

h) Adjustment to Principal Amount of this Note. In the event that this Note remains outstanding for sixty (60) calendar days subsequent to the Original Issue Date, the principal amount of this Note shall automatically be increased, without notice, from $500,000 to $525,000.

Section 6. Events of Default.

a) "Event of Default" means, wherever used herein, any of the following events (whatever the reason for such event and whether such event shall be voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree or order of any court, or any order, rule or regulation of any administrative or governmental body):

i. any default in the payment of (A) the principal amount of this Note or (B) liquidated damages and other amounts owing to a Holder on this Note, as and when the same shall become due and payable (whether on the Maturity Date, the Mandatory Prepayment Date, a Conversion Date or by acceleration or otherwise) which default is not cured within fifteen (15) calendar days;

ii. the Company shall fail to observe or perform any other covenant, obligation, or agreement contained in this Note (other than a breach by the Company of its obligations to deliver shares of Common Stock to the Holder upon conversion, which breach is addressed in clause (ix) below) or in any Transaction Document, which failure is not cured, if possible to cure, within fifteen (15) calendar days;

iii. a default or event of default (subject to any grace or cure period provided in the applicable agreement, document or instrument) shall occur under (A) any of the Transaction Documents or (B) any other material agreement, lease, document or instrument to which the Company or any Subsidiary is obligated (and not covered by clause (vi) below);

iv. any representation or warranty made in this Note, any other Transaction Documents, any written statement pursuant hereto or thereto or any other report, financial statement or certificate made or delivered to the Holder or any other Holder shall be untrue or incorrect in any material respect as of the date when made or deemed made;

v. the Company or any Significant Subsidiary (as such term is defined in Rule 1-02(w) of Regulation S-X) shall be subject to a Bankruptcy Event;

vi. the Company or any Subsidiary shall default on any of its obligations under any mortgage, credit agreement or other facility, indenture agreement, factoring agreement or other instrument under which there may be issued, or by which there may be secured or evidenced, any indebtedness for borrowed money or money due under any long term leasing or factoring arrangement that (a) involves an obligation greater than $100,000, whether such indebtedness now exists or shall hereafter be created, and (b) results in such indebtedness becoming or being declared due and payable prior to the date on which it would otherwise become due and payable, which default is not cured within fifteen (15) calendar days;

vii. the Common Stock shall not be eligible for listing or quotation for trading on a Trading Market and shall not be eligible to resume listing or quotation for trading thereon within five (5) Trading Days or the transfer of shares of Common Stock through the Depository Trust Company is no longer available or "chilled";

viii. the Company shall be a party to any Change of Control Transaction or Fundamental Transaction or shall agree to sell or dispose of all or in excess of 33% of its assets in one transaction or a series of related transactions (whether or not such sale would constitute a Change of Control Transaction);

ix. the Company shall fail for any reason to deliver Conversion Shares to a Holder prior to the fifth ($5^{th}$) Trading Day after a Conversion Date pursuant to Section 4(c) or the Company shall provide at any time notice to the Holder, including by way of public announcement, of the Company's intention to not honor requests for conversions of any Notes in accordance with the terms hereof;

x. the Company fails to file with the Commission any required reports under Section 13 or 15(d) of the Exchange Act such that it is not in compliance with Rule 144(c)(1) (or Rule 144(i)(2), if applicable), which failure is not cured, if possible to cure, within two (2) Trading Days after the expiration of the applicable grace period permitted under Rule 12b-25 of the Exchange Act, further provided that the Company files a Form 12b-25 for such report;

xi. the Company or any Subsidiary shall: (a) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of it or any of its properties, (b) admit in writing its inability to pay its debts as they mature, (c) make a general assignment for the benefit of creditors, (d) be adjudicated a bankrupt or be the subject of an order for relief under Title 11 of the United States Code or any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute of any other jurisdiction or foreign country, or (e) file a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage or any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law, or (f) take or permit to be taken any action in furtherance of or for the purpose of effecting any of the foregoing;

xii. if any order, judgment or decree shall be entered, without the application, approval or consent of the Company or any Subsidiary, by any court of competent jurisdiction, approving a petition seeking liquidation or reorganization of the Company or any Subsidiary, or appointing a receiver, trustee, custodian or liquidator of the Company or any Subsidiary, or of all or any substantial part of its assets, and such order, judgment or decree shall continue unstayed and in effect for any period of sixty (60) days;

xiii. the occurrence of any levy upon or seizure or attachment of, or any uninsured loss of or damage to, any property of the Company or any Subsidiary having an aggregate fair value or repair cost (as the case may be) in excess of $100,000 individually or in the aggregate, and any such levy, seizure or attachment shall not be set aside, bonded or discharged within thirty (30) days after the date thereof; or

xiv. any monetary judgment, writ or similar final process shall be entered or filed against the Company, any Subsidiary or any of their respective property or other assets for more than $50,000, and such judgment, writ or similar final process shall remain unvacated, unbonded or unstayed for a period of 45 calendar days.

b) Remedies Upon Event of Default. Upon the occurrence of an Event of Default that has not been cured in accordance with the terms hereof, the outstanding principal amount of this Note, any liquidated damages and other amounts owing in respect thereof through the date of acceleration, shall become, at the Holder's election, immediately due and payable in cash at the Mandatory Default Amount or convertible into Common Stock at the Mandatory Default Amount and at the Conversion Price. If the Holder elects to convert the Note upon the occurrence of an Event of Default that has not been cured in accordance with the terms hereof, the Holder shall be entitled to convert (i) 25% of the Mandatory Default Amount on the first (1st) Business Day after the end of the applicable cure period with respect to such Event of Default and (ii) thereafter, an additional 25% of the Mandatory Default Amount every fifteen (15) calendar days following the first (1st) Business Day after the end of the applicable cure period with respect to such Event of Default until the Note is no longer outstanding. Upon the payment in full of the Mandatory Default Amount, the Holder shall promptly surrender this Note to or as directed by the Company. In connection with such acceleration described herein, the Holder need not provide, and the Company hereby waives, any presentment, demand, protest or other notice of any kind, and the Holder may immediately and without expiration of any grace period enforce any and all of its rights and remedies hereunder and all other remedies available to it under applicable law. Such acceleration may be rescinded and annulled by Holder at any time prior to payment hereunder and the Holder shall have all rights as a holder of the Note until such time, if any, as the Holder receives full payment pursuant to this Section 6(b). No such rescission or annulment shall affect any subsequent Event of Default or impair any right consequent thereon.

Section 7. Miscellaneous.

a) Notices. Any and all notices or other communications or deliveries to be provided by the Holder hereunder, including, without limitation, any Notice of Conversion, shall be in writing and delivered personally, by facsimile, by email attachment, or sent by a nationally recognized overnight courier service, addressed to the Company, at the address set forth above, or such other facsimile number, email address, or address as the Company may specify for such purposes by notice to the Holder delivered in accordance with this Section 7(a). Any and all notices or other communications or deliveries to be provided by the Company hereunder shall be in writing and delivered personally, by facsimile, by email attachment, or sent by a nationally recognized overnight courier service addressed to the Holder at the facsimile number, email address or address of the Holder appearing on the books of the Company, or if no such facsimile number, email address or address appears on the books of the Company, at the principal place of business of such Holder, as set forth in the Purchase Agreement. Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of (i) the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or email attachment to the email address set forth on the signature pages attached hereto prior to 5:30 p.m. (New York City time) on any date, (ii) the next Trading Day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or email attachment to the email address set forth on the signature pages attached hereto on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (iii) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service or (iv) upon actual receipt by the party to whom such notice is required to be given.

b) Absolute Obligation. Except as expressly provided herein, no provision of this Note shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of, liquidated damages and any other amounts due, as applicable, on this Note at the time, place, and rate, and in the coin or currency, herein prescribed. This Note is a direct debt obligation of the Company.

c) Lost or Mutilated Note. If this Note shall be mutilated, lost, stolen or destroyed, the Company shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated Note, or in lieu of or in substitution for a lost, stolen or destroyed Note, a new Note for the principal amount of this Note so mutilated, lost, stolen or destroyed, but only upon receipt of evidence of such loss, theft or destruction of such Note, and of the ownership hereof, reasonably satisfactory to the Company.

d) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Note shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflict of laws thereof. Each party agrees that all legal proceedings concerning the interpretation, enforcement and defense of the transactions contemplated by any of the Transaction Documents (whether brought against a party hereto or its respective Affiliates, directors, officers, shareholders, employees or agents) shall be commenced in the state and federal courts sitting in the City of New York, Borough of Manhattan (the "New York Courts"). Each party hereto hereby irrevocably submits to the exclusive jurisdiction of the New York Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such New York Courts, or such New York Courts are improper or inconvenient venue for such proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Note and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by applicable law. Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Note or the transactions contemplated hereby. If any party shall commence an action or proceeding to enforce any provisions of this Note, then the prevailing party in such action or proceeding shall be reimbursed by the other party for its attorneys' fees and other costs and expenses incurred in the investigation, preparation and prosecution of such action or proceeding.

e) Waiver. Any waiver by the Company or the Holder of a breach of any provision of this Note shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Note. The failure of the Company or the Holder to insist upon strict adherence to any term of this Note on one or more occasions shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Note on any other occasion. Any waiver by the Company or the Holder must be in writing.

f) Amendments. The prior written consent of 50.1% in interest of the Holders, which shall be calculated based on the principal amount of all Notes outstanding at the time of such consent, shall be required for any change or amendment to the Notes.

g) Severability. If any provision of this Note is invalid, illegal or unenforceable, the balance of this Note shall remain in effect, and if any provision is inapplicable to any Person or circumstance, it shall nevertheless remain applicable to all other Persons and circumstances.

h) Remedies, Characterizations, Other Obligations, Breaches and Injunctive Relief. The remedies provided in this Note shall be cumulative and in addition to all other remedies available under this Note and any of the other Transaction Documents at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the Holder's right to pursue actual and consequential damages for any failure by the Company to comply with the terms of this Note. The Company covenants to the Holder that there shall be no characterization concerning this instrument other than as expressly provided herein. Amounts set forth or provided for herein with respect to payments, conversion and the like (and the computation thereof) shall be the amounts to be received by the Holder and shall not, except as expressly provided herein, be subject to any other obligation of the Company (or the performance thereof). The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder and that the remedy at law for any such breach may be inadequate. The Company therefore agrees that, in the event of any such breach or threatened breach, the Holder shall be entitled, in addition to all other available remedies, to an injunction restraining any such breach or any such threatened breach, without the necessity of showing economic loss and without any bond or other security being required. The Company shall provide all information and documentation to the Holder that is requested by the Holder to enable the Holder to confirm the Company's compliance with the terms and conditions of this Note.

i) Next Business Day. Whenever any payment or other obligation hereunder shall be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day.

j) Headings. The headings contained herein are for convenience only, do not constitute a part of this Note and shall not be deemed to limit or affect any of the provisions hereof.

Section 8. Disclosure. Upon receipt or delivery by the Company of any notice in accordance with the terms of this Note, unless the Company has in good faith determined that the matters relating to such notice do not constitute material, nonpublic information relating to the Company or its Subsidiaries, the Company shall within two (2) Business Days after such receipt or delivery publicly disclose such material, nonpublic information on a Current Report on Form 8-K or otherwise. In the event that the Company believes that a notice contains material, non-public information relating to the Company or its Subsidiaries, the Company so shall indicate to the Holder contemporaneously with delivery of such notice, and in the absence of any such indication, the Holder shall be allowed to presume that all matters relating to such notice do not constitute material, nonpublic information relating to the Company or its Subsidiaries.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed by a duly authorized officer as of the date first above indicated.

VERB TECHNOLOGY COMPANY, INC.

By: _____
Name: Rory J. Cutaia
Title: Chief Executive Officer

Facsimile No. for delivery of Notices: _____

**ANNEX A**

**NOTICE OF CONVERSION**

The undersigned hereby elects to convert principal under the 5% ORIGINAL ISSUE DISCOUNT PROMISSORY NOTE due August 1, 2019, of Verb Technology Company, Inc., a Nevada corporation formerly known as nFüsz, Inc. (the "Company"), into shares of common stock (the "Common Stock"), of the Company according to the conditions hereof, as of the date written below. If shares of Common Stock are to be issued in the name of a person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto and is delivering herewith such certificates and opinions as reasonably requested by the Company in accordance therewith. No fee will be charged to the holder for any conversion, except for such transfer taxes, if any.

By the delivery of this Notice of Conversion the undersigned represents and warrants to the Company that its ownership of the Common Stock does not exceed the amounts specified under Section 4 of this Note, as determined in accordance with Section 13(d) of the Exchange Act.

The undersigned agrees to comply with the prospectus delivery requirements under the applicable securities laws in connection with any transfer of the aforesaid shares of Common Stock.

Conversion calculations:

Date to Effect Conversion:

Principal Amount of Note to be Converted:

Number of Shares of Common Stock to be Issued:

Signature:

Name:

Address for Delivery of Common Stock Certificates:

or

DWAC Instructions:

Broker No: _____

Account No: _____

**Schedule 1**

**CONVERSION SCHEDULE**

The 5% ORIGINAL ISSUE DISCOUNT PROMISSORY NOTES due on August 1, 2019 in the aggregate principal amount of $500,000 are issued by Verb Technology Company, Inc., a Nevada corporation formerly known as nFüsz, Inc. This Conversion Schedule reflects conversions made under Section 4 of the above referenced Note.

Dated:

| Date of Conversion (or for first entry, Original Issue Date) | Amount of Conversion | Aggregate Principal Amount Remaining Subsequent to Conversion (or original Principal Amount) | Company Attest |
|---|---|---|---|
| | | | |
| | | | |

**SECURITIES PURCHASE AGREEMENT**

This Securities Purchase Agreement (this "Agreement") is dated as of February 1, 2019, between Verb Technology Company, Inc., a Nevada corporation formerly known as nFüsz, Inc. (the "Company"), and each purchaser identified on the signature pages hereto (each, including its successors and assigns, a "Purchaser" and, collectively, the "Purchasers").

WHEREAS, subject to the terms and conditions set forth in this Agreement and pursuant to Section 4(a)(2) of the Securities Act of 1933, as amended (the "Securities Act"), and Rule 506 promulgated thereunder, the Company desires to issue and sell to each Purchaser, and each Purchaser, severally and not jointly, desires to purchase from the Company, securities of the Company as more fully described in this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Company and each Purchaser agree as follows:

**ARTICLE I.**
**DEFINITIONS**

1.1 Definitions. In addition to the terms defined elsewhere in this Agreement: (a) capitalized terms that are not otherwise defined herein have the meanings given to such terms in the Notes (as defined herein), and (b) the following terms have the meanings set forth in this Section 1.1:

"Acquiring Person" shall have the meaning ascribed to such term in Section 4.7.

"Action" shall have the meaning ascribed to such term in Section 3.1(j).

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 under the Securities Act.

"Board of Directors" means the board of directors of the Company.

"Business Day" means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which the Federal Reserve Bank of New York is closed.

"Closing" means the closing of the purchase and sale of the Securities pursuant to Section 2.1.

"Closing Date" means the Trading Day on which all of the Transaction Documents have been executed and delivered by the applicable parties thereto, and all conditions precedent to (i) the Purchasers' obligations to pay the Subscription Amount and (ii) the Company's obligations to deliver the Securities, in each case, have been satisfied or waived.

"Commission" means the United States Securities and Exchange Commission.

"Commitment Shares" means the shares of Common Stock to be issued by the Company to the Purchaser pursuant to Section 2.1.

"Common Stock" means the common stock of the Company, par value $0.0001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

"Common Stock Equivalents" means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"Company Counsel" means Baker & Hostetler LLP, with offices located at 600 Anton Boulevard, Suite 900, Costa Mesa, California 92626.

"Conversion Shares" shall have the meaning ascribed to such term in the Notes.

"Disclosure Schedules" shall have the meaning ascribed to such term in Section 3.1.

"Disclosure Time" means, (i) if this Agreement is signed prior to midnight on any Trading Day, 8:00 a.m. (New York City time) on the Trading Day immediately following the date hereof, and (ii) if this Agreement is signed after midnight on any Trading Day, 8:00 a.m. (New York City time).

"Evaluation Date" shall have the meaning ascribed to such term in Section 3.1(s).

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Exempt Issuance" means the issuance of (a) shares of Common Stock or options to employees, officers, directors, advisors or independent contractors of the Company pursuant to any stock or option plan duly adopted for such purpose, (b) shares of Common Stock, warrants or options to advisors or independent contractors of the Company for compensatory purposes, (c) securities upon the exercise or exchange of or conversion of any Securities issued under the Purchase Agreement and/or other securities exercisable or exchangeable for or convertible into shares of Common Stock issued and outstanding on the date hereof, provided that such securities have not been amended since the date hereof to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities, (d) securities issuable pursuant to any contractual anti-dilution obligations of the Company in effect as of the date hereof, provided that such obligations have not been materially amended since the date of hereof, and (e) securities issued pursuant to acquisitions or any other strategic transactions approved by the Board of Directors, provided that any such issuance shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities.

"FCPA" means the Foreign Corrupt Practices Act of 1977, as amended.

"GAAP" shall have the meaning ascribed to such term in Section 3.1(h).

"Indebtedness" shall have the meaning ascribed to such term in Section 3.1(bb).

"Intellectual Property Rights" shall have the meaning ascribed to such term in Section 3.1(p).

"Legend Removal Date" shall have the meaning ascribed to such term in Section 4.1(c).

"Liens" means a lien, charge, pledge, security interest, encumbrance, right of first refusal, preemptive right or other restriction.

"Material Adverse Effect" shall have the meaning assigned to such term in Section 3.1(b).

"Material Permits" shall have the meaning ascribed to such term in Section 3.1(n).

"Maximum Rate" shall have the meaning ascribed to such term in Section 5.17.

"Notes" means the 5% Original Issue Discount Promissory Notes due, subject to the terms therein, six (6) months from their date of issuance, issued by the Company to the Purchasers hereunder, in the form of Exhibit A attached hereto.

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"Proceeding" means an action, claim, suit, investigation or proceeding (including, without limitation, an informal investigation or partial proceeding, such as a deposition), whether commenced or threatened.

"Public Information Failure" shall have the meaning ascribed to such term in Section 4.3(b).

"Public Information Failure Payments" shall have the meaning ascribed to such term in Section 4.3(b).

"Purchaser Party" shall have the meaning ascribed to such term in Section 4.10.

"Robinson Brog" means Robinson Brog Leinwand Greene Genovese & Gluck PC, with offices located at 875 Third Avenue, New York, New York 10022.

"Required Approvals" shall have the meaning ascribed to such term in Section 3.1(e).

"Required Minimum" means, as of any date, the maximum aggregate number of shares of Common Stock then issued or potentially issuable in the future pursuant to the Transaction Documents, including any Conversion Shares issuable upon conversion in full of all Notes, ignoring any conversion limitations set forth therein, and assuming that the conversion price is at all times on and after the date of determination 100% of the then conversion price on the Trading Day immediately prior to the date of determination.

"Rule 144" means Rule 144 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such Rule.

"Rule 424" means Rule 424 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

"SEC Reports" shall have the meaning ascribed to such term in Section 3.1(h).

"Securities" means the Notes, the Commitment Shares and the Conversion Shares.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Short Sales" means all "short sales" as defined in Rule 200 of Regulation SHO under the Exchange Act (but shall not be deemed to include locating and/or borrowing shares of Common Stock).

"Subscription Amount" means, as to each Purchaser, the aggregate amount to be paid for the Notes and the Commitment Shares purchased hereunder as specified below such Purchaser's name on the signature page of this Agreement and next to the heading "Subscription Amount," in United States dollars and in immediately available funds.

"Subsidiary" means any subsidiary of the Company as set forth onSchedule 3.1(a) and shall, where applicable, also include any direct or indirect subsidiary of the Company formed or acquired after the date hereof.

"Trading Day" means a day on which the principal Trading Market is open for trading.

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the NYSE American, the New York Stock Exchange or any level of the OTC Markets operated by OTC Markets Group Inc. (or any successors to any of the foregoing).

"Transaction Documents" means this Agreement, the Notes, all exhibits and schedules thereto and hereto and any other documents or agreements executed in connection with the transactions contemplated hereunder.

"Transfer Agent" means VStock Transfer, LLC, the current transfer agent of the Company, with a mailing address of 18 Lafayette Place, Woodmere, New York 11598, and any successor transfer agent of the Company.

"Variable Rate Transaction" shall have the meaning ascribed to such term in Section 4.13(a).

"VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX, as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported in the "Pink Sheets" published by OTC Markets Group, Inc. (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Purchasers of a majority in interest of the Securities then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

## ARTICLE II.
## PURCHASE AND SALE

2.1 Closing. On the Closing Date, upon the terms and subject to the conditions set forth herein, substantially concurrent with the execution and delivery of this Agreement by the parties hereto, the Company agrees to sell, and each Purchaser, severally and not jointly, agrees to purchase, one or more Notes in the aggregate principal amount of $500,000 for an aggregate purchase price of $475,000, which includes a 5% original issue discount. In addition, in consideration for the Purchaser's execution and delivery of this Agreement, the Company shall issue to the Purchasers an aggregate of 250,000 pre-reverse split shares of Common Stock [1] (collectively, the "Commitment Shares") on the Closing Date. Each Purchaser shall deliver to the Company, via wire transfer, immediately available funds equal to such Purchaser's Subscription Amount as set forth on the signature page hereto executed by such Purchaser, and the Company shall deliver to each Purchaser its respective Note and Commitment Shares, and the Company and each Purchaser shall deliver the other items set forth in Section 2.2 deliverable at the Closing. Upon satisfaction of the covenants and conditions set forth in Sections 2.2 and 2.3, the Closing shall occur at the offices of Robinson Brog or such other location as the parties shall mutually agree.

1 The Company effectuated a one-for-15 reverse split of the shares of its Common Stock at the close of business on February 1, 2019. Accordingly, for the avoidance of doubt, the post-reverse split number of Commitment Shares shall become 16,667 and the number of post-reverse split shares referenced in Section 4.19 shall become 8,606.

2.2 Deliveries.

(a) On or prior to the Closing Date, the Company shall deliver or cause to be delivered to each Purchaser the following:

(i) this Agreement duly executed by the Company;

(ii) a Note with a principal amount equal to such Purchaser's Subscription Amount, registered in the name of such Purchaser;

(iii) the relevant number of Commitment Shares;

(iv) a certificate evidencing the formation and good standing of the Company and each of its Subsidiaries in each such entity's jurisdiction of formation issued by the Secretary of State (or comparable office) of such jurisdiction of formation as of a date within ten (10) days of the Closing Date;

(v) a certificate evidencing the Company's and each Subsidiary's qualification as a foreign corporation and good standing issued by the Secretary of State (or comparable office) of each jurisdiction, if any, in which the Company and its Subsidiaries conduct business and are required to so qualify, as of a date within ten (10) days of the Closing Date;

(vi) a certificate executed by the Secretary of the Company and dated as of the Closing Date, certifying as to (i) the resolutions, as adopted by the Board of Directors in a form reasonably acceptable to the Purchasers, approving (A) the entering into and performance of this Agreement and the other Transaction Documents and the issuance, offering and sale of the Securities and (B) the performance by the Company of its obligations under the Transaction Documents contemplated therein, (ii) the Company's articles of incorporation and (iii) the Company's bylaws, each as in effect at the Closing; and

(vii) such other documents, instruments or certificates relating to the transactions contemplated by this Agreement as the Purchasers may reasonably request.

(b) On or prior to the Closing Date, each Purchaser shall deliver or cause to be delivered to the Company the following:

(i) this Agreement duly executed by such Purchaser; and

(ii) such Purchaser's Subscription Amount by wire transfer to the account specified in writing by the Company.

2.3 Closing Conditions.

(a) The obligations of the Company hereunder in connection with the Closing are subject to the following conditions being met:

(i) the accuracy in all material respects on (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) the Closing Date of the representations and warranties of the Purchasers contained herein (unless as of a specific date therein in which case they shall be accurate as of such date);

(ii) all obligations, covenants and agreements of each Purchaser required to be performed at or prior to the Closing Date shall have been performed; and

(iii) the delivery by each Purchaser of the items set forth in Section 2.2(b) of this Agreement.

(b) The respective obligations of the Purchasers hereunder in connection with the Closing are subject to the following conditions being met:

(i) the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) when made and on the Closing Date of the representations and warranties of the Company contained herein (unless as of a specific date therein in which case they shall be accurate as of such date);

(ii) all obligations, covenants and agreements of the Company required to be performed at or prior to the Closing Date shall have been performed;

(iii) the delivery by the Company of the items set forth in Section 2.2(a) of this Agreement;

(iv) there shall have been no Material Adverse Effect with respect to the Company since the date hereof; and

(v) from the date hereof to the Closing Date, trading in the Common Stock shall not have been suspended by the Commission or the Company's principal Trading Market and, at any time prior to the Closing Date, trading in securities generally as reported by Bloomberg L.P. shall not have been suspended or limited, or minimum prices shall not have been established on securities whose trades are reported by such service, or on any Trading Market, nor shall a banking moratorium have been declared either by the United States or New York State authorities nor shall there have occurred any material outbreak or escalation of hostilities or other national or international calamity of such magnitude in its effect on, or any material adverse change in, any financial market which, in each case, in the reasonable judgment of such Purchaser, makes it impracticable or inadvisable to purchase the Securities at the Closing.

**ARTICLE III.**
**REPRESENTATIONS AND WARRANTIES**

3.1 Representations and Warranties of the Company. Except as set forth in the Disclosure Schedules, which Disclosure Schedules shall be deemed a part hereof and shall qualify any representation or otherwise made herein to the extent of the disclosure contained in the corresponding section of the Disclosure Schedules, the Company hereby makes the following representations and warranties to each Purchaser:

(a) Subsidiaries. All of the direct and indirect subsidiaries of the Company are set forth on Schedule 3.1(a). The Company owns, directly or indirectly, all of the capital stock or other equity interests of each Subsidiary free and clear of any Liens, and all of the issued and outstanding shares of capital stock of each Subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights to subscribe for or purchase securities. If the Company has no subsidiaries, all other references to the Subsidiaries or any of them in the Transaction Documents shall be disregarded.

(b) Organization and Qualification. Each of the Company and each of the Subsidiaries is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation nor default of any of the provisions of its respective certificate or articles of incorporation, bylaws or other organizational or charter documents. Each of the Company and each of the Subsidiaries is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in: (i) a material adverse effect on the legality, validity or enforceability of any Transaction Document, (ii) a material adverse effect on the results of operations, assets, business, prospects or condition (financial or otherwise) of the Company and the Subsidiaries, taken as a whole, or (iii) a material adverse effect on the Company's ability to perform in any material respect on a timely basis its obligations under any Transaction Document (any of (i), (ii) or (iii), a "Material Adverse Effect") and no Proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

(c) Authorization; Enforcement. The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and each of the other Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and each of the other Transaction Documents by the Company and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company, the Board of Directors or the Company's stockholders in connection herewith or therewith other than in connection with the Required Approvals. This Agreement and each other Transaction Document to which it is a party has been (or upon delivery will have been) duly executed by the Company and, when delivered in accordance with the terms hereof and thereof, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(d) No Conflicts. The execution, delivery and performance by the Company of this Agreement and the other Transaction Documents to which it is a party, the issuance and sale of the Securities and the consummation by it of the transactions contemplated hereby and thereby do not and will not: (i) conflict with or violate any provision of the Company's or any Subsidiary's certificate or articles of incorporation, bylaws or other organizational or charter documents; (ii) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, result in the creation of any Lien upon any of the properties or assets of the Company or any Subsidiary, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound or affected; or (iii) subject to the Required Approvals, conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including federal and state securities laws and regulations), or by which any property or asset of the Company or a Subsidiary is bound or affected; except in the case of each of clauses (ii) and (iii), such as could not have or reasonably be expected to result in a Material Adverse Effect.

(e) Filings, Consents and Approvals. The Company is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or other Person in connection with the execution, delivery and performance by the Company of the Transaction Documents, other than: (i) the filings required pursuant to Section 4.6 of this Agreement; (ii) the notice and/or application(s) to each applicable Trading Market for the issuance and sale of the Securities and the listing of the Conversion Shares and the Commitment Shares for trading thereon in the time and manner required thereby; and (iii) the filing of Form D with the Commission and such filings as are required to be made under applicable state securities laws (collectively, the "Required Approvals").

(f) Issuance of the Securities. The Securities are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company other than restrictions on transfer provided for in the Transaction Documents.

(g) Capitalization. The capitalization of the Company as of the date hereof is as set forth on Schedule 3.1(g), which Schedule 3.1(g) shall also include (A) the number of shares of Common Stock owned beneficially, and of record, by Affiliates of the Company as of the date hereof and (B) the number of authorized and reserved shares of capital stock of the Company. The Company has not issued any capital stock since its most recently filed periodic report under the Exchange Act, other than pursuant to the exercise of employee stock options under the Company's stock option plans, the issuance of shares of Common Stock to employees pursuant to the Company's employee stock purchase plans and pursuant to the conversion and/or exercise of Common Stock Equivalents outstanding as of the date of the most recently filed periodic report under the Exchange Act. No Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except as a result of the purchase and sale of the Securities, there are no outstanding options, warrants, scrip rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire any shares of Common Stock or the capital stock of any Subsidiary, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional shares of Common Stock or Common Stock Equivalents or capital stock of any Subsidiary. The issuance and sale of the Securities will not obligate the Company or any Subsidiary to issue shares of Common Stock or other securities to any Person (other than the Purchasers) and will not result in a right of any holder of Company securities to adjust the exercise, conversion, exchange or reset price under any of such securities. There are no outstanding securities or instruments of the Company or any Subsidiary that contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to redeem a security of the Company or such Subsidiary. The Company does not have any stock appreciation rights or "phantom stock" plans or agreements or any similar plan or agreement. All of the outstanding shares of capital stock of the Company are duly authorized, validly issued, fully paid and nonassessable, have been issued in compliance with all federal and state securities laws, and none of such outstanding shares was issued in violation of any preemptive rights or similar rights to subscribe for or purchase securities. No further approval or authorization of any stockholder, the Board of Directors or others is required for the issuance and sale of the Securities. There are no stockholders agreements, voting agreements or other similar agreements with respect to the Company's capital stock to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's stockholders.

(h) SEC Reports; Financial Statements. The Company has filed all reports, schedules, forms, statements and other documents required to be filed by the Company under the Securities Act and the Exchange Act, including pursuant to Section 13(a) or 15(d) thereof, for the two (2) years preceding the date hereof (or such shorter period as the Company was required by law or regulation to file such material) (the foregoing materials, including the exhibits thereto and documents incorporated by reference therein, being collectively referred to herein as the "SEC Reports") on a timely basis or has received a valid extension of such time of filing and has filed any such SEC Reports prior to the expiration of any such extension. As of their respective dates, the SEC Reports complied in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and none of the SEC Reports, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The financial statements of the Company included in the SEC Reports comply in all material respects with applicable accounting requirements and the rules and regulations of the Commission with respect thereto as in effect at the time of filing. Such financial statements have been prepared in accordance with United States generally accepted accounting principles applied on a consistent basis during the periods involved ("GAAP"), except as may be otherwise specified in such financial statements or the notes thereto and except that unaudited financial statements may not contain all footnotes required by GAAP, and fairly present in all material respects the financial position of the Company and its consolidated Subsidiaries as of and for the dates thereof and the results of operations and cash flows for the periods then ended, subject, in the case of unaudited statements, to normal, immaterial, year-end audit adjustments. The Company is not currently an issuer under Rule 144(i)(1)(i). The Company was previously an issuer under Rule 144(i)(1)(i) and has filed current Form 10 information (as defined in Rule 144(i)(3)) with the SEC, as required pursuant to Rule 144(i)(2), at least one (1) year prior to the date hereof.

(i) Material Changes; Undisclosed Events, Liabilities or Developments. Since the date of the latest audited financial statements included within the SEC Reports, except as set forth on Schedule 3.1(i), (i) there has been no event, occurrence or development that has had or that could reasonably be expected to result in a Material Adverse Effect, (ii) the Company has not incurred any liabilities (contingent or otherwise) other than (A) trade payables and accrued expenses incurred in the ordinary course of business consistent with past practice and (B) liabilities not required to be reflected in the Company's financial statements pursuant to GAAP or disclosed in filings made with the Commission, (iii) the Company has not altered its method of accounting, (iv) the Company has not declared or made any dividend or distribution of cash or other property to its stockholders or purchased, redeemed or made any agreements to purchase or redeem any shares of its capital stock and (v) the Company has not issued any equity securities to any officer, director or Affiliate, except pursuant to existing Company stock option plans. The Company does not have pending before the Commission any request for confidential treatment of information. Except for the issuance of the Securities contemplated by this Agreement or as set forth on Schedule 3.1(i), no event, liability, fact, circumstance, occurrence or development has occurred or exists or is reasonably expected to occur or exist with respect to the Company or its Subsidiaries or their respective businesses, prospects, properties, operations, assets or financial condition, that would be required to be disclosed by the Company under applicable securities laws at the time this representation is made or deemed made that has not been publicly disclosed at least one (1) Trading Day prior to the date that this representation is made.

(j) Litigation. There is no action, suit, inquiry, notice of violation, proceeding or investigation pending or, to the knowledge of the Company, threatened against or affecting the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an "Action") which (i) adversely affects or challenges the legality, validity or enforceability of any of the Transaction Documents or the Securities or (ii) could, if there were an unfavorable decision, have or reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any Subsidiary, nor any director or officer thereof, is or has been the subject of any Action involving a claim of violation of or liability under federal or state securities laws or a claim of breach of fiduciary duty. There has not been, and to the knowledge of the Company, there is not pending or contemplated, any investigation by the Commission involving the Company or any current or former director or officer of the Company. The Commission has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company or any Subsidiary under the Exchange Act or the Securities Act.

(k) Labor Relations. No labor dispute exists or, to the knowledge of the Company, is imminent with respect to any of the employees of the Company, which could reasonably be expected to result in a Material Adverse Effect. None of the Company's or its Subsidiaries' employees is a member of a union that relates to such employee's relationship with the Company or such Subsidiary, and neither the Company nor any of its Subsidiaries is a party to a collective bargaining agreement, and the Company and its Subsidiaries believe that their relationships with their employees are good. To the knowledge of the Company, no executive officer of the Company or any Subsidiary, is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement or non-competition agreement, or any other contract or agreement or any restrictive covenant in favor of any third party, and the continued employment of each such executive officer does not subject the Company or any of its Subsidiaries to any liability with respect to any of the foregoing matters. The Company and its Subsidiaries are in compliance with all U.S. federal, state, local and foreign laws and regulations relating to employment and employment practices, terms and conditions of employment and wages and hours, except where the failure to be in compliance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(l) Compliance. Neither the Company nor any Subsidiary: (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is in violation of any judgment, decree or order of any court, arbitrator or other governmental authority or (iii) is or has been in violation of any statute, rule, ordinance or regulation of any governmental authority, including without limitation all foreign, federal, state and local laws relating to taxes, environmental protection, occupational health and safety, product quality and safety and employment and labor matters, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

(m) Environmental Laws. Each of the Company and each of its Subsidiaries (i) is in compliance with all federal, state, local and foreign laws relating to pollution or protection of human health or the environment (including ambient air, surface water, groundwater, land surface or subsurface strata), including laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "Hazardous Materials") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands, or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations, issued, entered, promulgated or approved thereunder ("Environmental Laws"); (ii) has received all permits licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses; and (iii) is in compliance with all terms and conditions of any such permit, license or approval where in each clause (i), (ii) and (iii), the failure to so comply could be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

(n) Regulatory Permits. Each of the Company and each of its Subsidiaries possesses all certificates, authorizations and permits issued by the appropriate federal, state, local or foreign regulatory authorities necessary to conduct their respective businesses as described in the SEC Reports, except where the failure to possess such permits could not reasonably be expected to result in a Material Adverse Effect ("Material Permits"), and neither the Company nor any Subsidiary has received any notice of Proceedings relating to the revocation or modification of any Material Permit.

(o) Title to Assets. Each of the Company and each of its Subsidiaries has good and marketable title in fee simple to all real property owned by each of them and good and marketable title in all personal property owned by each of them that is material to the business of the Company and the Subsidiaries, in each case free and clear of all Liens, except for (i) Liens as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and the Subsidiaries and (ii) Liens for the payment of federal, state or other taxes, for which appropriate reserves have been made therefor in accordance with GAAP and, the payment of which is neither delinquent nor subject to penalties. Any real property and facilities held under lease by the Company and the Subsidiaries are held by them under valid, subsisting and enforceable leases with which the Company and the Subsidiaries are in compliance.

(p) Intellectual Property. Each of the Company and each of its Subsidiaries has, or has rights to use, all patents, patent applications, trademarks, trademark applications, service marks, trade names, trade secrets, inventions, copyrights, licenses and other intellectual property rights and similar rights necessary or required for use in connection with their respective businesses as described in the SEC Reports and which the failure to so have could have a Material Adverse Effect (collectively, the "Intellectual Property Rights"). None of, and neither the Company nor any Subsidiary has received a notice (written or otherwise) that any of, the Intellectual Property Rights has expired, terminated or been abandoned, or is expected to expire or terminate or be abandoned, within two (2) years from the date of this Agreement. Neither the Company nor any Subsidiary has received, since the date of the latest audited financial statements included within the SEC Reports, a written notice of a claim or otherwise has any knowledge that the Intellectual Property Rights violate or infringe upon the rights of any Person, except as could not have or reasonably be expected to not have a Material Adverse Effect. To the knowledge of the Company, all such Intellectual Property Rights are enforceable and there is no existing infringement by another Person of any of the Intellectual Property Rights. Each of the Company and each of its Subsidiaries has taken reasonable security measures to protect the secrecy, confidentiality and value of all of its respective intellectual properties, except where failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(q) Insurance. Each of the Company and each of its Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which the Company and the Subsidiaries are engaged, including, but not limited to, directors and officers insurance coverage at least equal to the aggregate Subscription Amount. Neither the Company nor any Subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business without a significant increase in cost.

(r) Transactions with Affiliates and Employees. Except as set forth on Schedule 3.1(r), none of the officers or directors of the Company or any Subsidiary and, to the knowledge of the Company, none of the employees of the Company or any Subsidiary is presently a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from providing for the borrowing of money from or lending of money to, or otherwise requiring payments to or from any officer, director or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee, stockholder, member or partner, in each case in excess of $120,000 other than for (i) payment of salary or consulting fees for services rendered, (ii) reimbursement for expenses incurred on behalf of the Company and (iii) other employee benefits, including stock option agreements under any stock option plan of the Company.

(s) Sarbanes-Oxley; Internal Accounting Controls. The Company is in compliance with any and all applicable requirements of the Sarbanes-Oxley Act of 2002 that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the Commission thereunder that are effective as of the date hereof and as of the Closing Date. Each of the Company and each of its Subsidiaries maintains a system of internal accounting controls sufficient to provide reasonable assurance that: (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability, (iii) access to assets is permitted only in accordance with management's general or specific authorization, and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Each of the Company and each of its Subsidiaries has established disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the Company and the Subsidiaries and designed such disclosure controls and procedures to ensure that information required to be disclosed by the Company in the reports it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms. The Company's certifying officers have evaluated the effectiveness of the disclosure controls and procedures of the Company and the Subsidiaries as of the end of the period covered by the most recently filed periodic report under the Exchange Act (such date, the "Evaluation Date"). The Company presented in its most recently filed periodic report under the Exchange Act the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no changes in the internal control over financial reporting (as such term is defined in the Exchange Act) that have materially affected, or is reasonably likely to materially affect, the internal control over financial reporting of the Company and its Subsidiaries.

(t) Certain Fees. Other than as set forth on Schedule 3.1(t), no brokerage or finder's fees or commissions are or will be payable by the Company or any Subsidiaries to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by the Transaction Documents. Except as set forth on Schedule 3.1(t), the Purchasers shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons for fees of a type contemplated in this Section that may be due in connection with the transactions contemplated by the Transaction Documents.

(u) Private Placement. Assuming the accuracy of the Purchasers' representations and warranties set forth in Section 3.2, no registration under the Securities Act is required for the offer and sale of the Securities by the Company to the Purchasers as contemplated hereby. The issuance and sale of the Securities hereunder does not contravene the rules and regulations of the Trading Market.

(v) Investment Company. The Company is not, and is not an Affiliate of, and immediately after receipt of payment for the Securities, will not be or be an Affiliate of, an "investment company" within the meaning of the Investment Company Act of 1940, as amended. The Company shall conduct its business in a manner so that it will not become an "investment company" subject to registration under the Investment Company Act of 1940, as amended.

(w) Registration Rights. No Person has any right to cause the Company or any Subsidiary to effect the registration under the Securities Act of any securities of the Company or any Subsidiaries.

(x) Listing and Maintenance Requirements. The Common Stock is registered pursuant to Section 12(b) or 12(g) of the Exchange Act, and the Company has taken no action designed to, or which to its knowledge is likely to have the effect of, terminating the registration of the Common Stock under the Exchange Act nor has the Company received any notification that the Commission is contemplating terminating such registration. The Company has not, in the twelve (12) months preceding the date hereof, received notice from any Trading Market on which the Common Stock is or has been listed or quoted to the effect that the Company is not in compliance with the listing or maintenance requirements of such Trading Market. The Company is, and has no reason to believe that it will not in the foreseeable future continue to be, in compliance with all such listing and maintenance requirements. The Common Stock is currently eligible for electronic transfer through the Depository Trust Company or another established clearing corporation and the Company is current in payment of the fees to the Depository Trust Company (or such other established clearing corporation) in connection with such electronic transfer.

(y) Application of Takeover Protections. The Company and the Board of Directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company's certificate of incorporation (or similar charter documents) or the laws of its state of incorporation that is or could become applicable to the Purchasers as a result of the Purchasers and the Company fulfilling their obligations or exercising their rights under the Transaction Documents, including without limitation as a result of the Company's issuance of the Securities and the Purchasers' ownership of the Securities.

(z) Disclosure. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, the Company confirms that neither it nor any other Person acting on its behalf has provided any of the Purchasers or their agents or counsel with any information that it believes constitutes or might constitute material, non-public information. The Company understands and confirms that the Purchasers will rely on the foregoing representation in effecting transactions in securities of the Company. All of the disclosure furnished by or on behalf of the Company to the Purchasers regarding the Company and its Subsidiaries, their respective businesses and the transactions contemplated hereby, including the Disclosure Schedules to this Agreement, is true and correct and does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading. The press releases disseminated by the Company during the twelve (12) months preceding the date of this Agreement taken as a whole do not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made and when made, not misleading. The Company acknowledges and agrees that no Purchaser makes or has made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Section 3.2 hereof.

(aa) No Integrated Offering. Assuming the accuracy of the Purchasers' representations and warranties set forth in Section 3.2, neither the Company, nor any of its Affiliates, nor any Person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Securities to be integrated with prior offerings by the Company for purposes of (i) the Securities Act which would require the registration of any such securities under the Securities Act, or (ii) any applicable stockholder approval provisions of any Trading Market on which any of the securities of the Company are listed or quoted.

(bb) Solvency. The Company does not intend to incur debts beyond its ability to pay such debts as they mature (taking into account the timing and amounts of cash to be payable on or in respect of its debt). The Company has no knowledge of any facts or circumstances which lead it to believe that it will file for reorganization or liquidation under the bankruptcy or reorganization laws of any jurisdiction within one (1) year from the Closing Date. Schedule 3.1(bb) sets forth as of the date hereof all outstanding secured and unsecured Indebtedness of the Company or any Subsidiary, or for which the Company or any Subsidiary has commitments. For the purposes of this Agreement, "Indebtedness" means (x) any liabilities for borrowed money or amounts owed in excess of $50,000 (other than trade accounts payable incurred in the ordinary course of business), (y) all guaranties, endorsements and other contingent obligations in respect of indebtedness of others, whether or not the same are or should be reflected in the Company's consolidated balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business, and (z) the present value of any lease payments in excess of $50,000 due under leases required to be capitalized in accordance with GAAP. Neither the Company nor any Subsidiary is in default with respect to any Indebtedness.

(cc) Tax Status. Except for matters that would not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect, the Company and its Subsidiaries each (i) has made or filed all United States federal, state and local income and all foreign income and franchise tax returns, reports and declarations required by any jurisdiction to which it is subject, (ii) has paid all taxes and other governmental assessments and charges that are material in amount, shown or determined to be due on such returns, reports and declarations and (iii) has set aside on its books provision reasonably adequate for the payment of all material taxes for periods subsequent to the periods to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction, and neither the officers of the Company nor of any Subsidiary know of any basis for any such claim.

(dd) No General Solicitation. Neither the Company nor any Person acting on behalf of the Company has offered or sold any of the Securities by any form of general solicitation or general advertising. The Company has offered the Securities for sale only to the Purchasers and certain other "accredited investors" within the meaning of Rule 501 under the Securities Act.

(ee) Foreign Corrupt Practices. Neither the Company nor any Subsidiary, nor to the knowledge of the Company or any Subsidiary, any agent or other person acting on behalf of the Company or any Subsidiary, has (i) directly or indirectly, used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (iii) failed to disclose fully any contribution made by the Company or any Subsidiary (or made by any person acting on its behalf of which the Company is aware) which is in violation of law or (iv) violated in any material respect any provision of FCPA.

(ff) Accountants. The Company's accounting firm is set forth on Schedule 3.1(ff) of the Disclosure Schedules. To the knowledge and belief of the Company, such accounting firm (i) is a registered public accounting firm as required by the Exchange Act and (ii) shall express its opinion with respect to the financial statements to be included in the Company's Annual Report for the fiscal year ending December 31, 2018.

(gg) [Reserved].

(hh) No Disagreements with Accountants and Lawyers. There are no disagreements of any kind presently existing, or reasonably anticipated by the Company to arise, between the Company and the accountants and lawyers formerly or presently employed by the Company and the Company is current with respect to any fees owed to its accountants and lawyers which could affect the Company's ability to perform any of its obligations under any of the Transaction Documents.

(ii) Acknowledgment Regarding Purchasers' Purchase of Securities. The Company acknowledges and agrees that each of the Purchasers is acting solely in the capacity of an arm's length purchaser with respect to the Transaction Documents and the transactions contemplated thereby. The Company further acknowledges that no Purchaser is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated thereby and any advice given by any Purchaser or any of their respective representatives or agents in connection with the Transaction Documents and the transactions contemplated thereby is merely incidental to the Purchasers' purchase of the Securities. The Company further represents to each Purchaser that the Company's decision to enter into this Agreement and the other Transaction Documents has been based solely on the independent evaluation of the transactions contemplated hereby by the Company and its representatives.

(jj) [Reserved].

(kk) Regulation M Compliance. The Company has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or paid any compensation for soliciting purchases of, any of the Securities, or (iii) paid or agreed to pay to any Person any compensation for soliciting another to purchase any other securities of the Company, other than, in the case of clauses (ii) and (iii), compensation paid to the Company's placement agent in connection with the placement of the Securities.

(ll) [Reserved].

(mm) Stock Option Plans. Each stock option granted by the Company under the Company's stock option plan was granted (i) in accordance with the terms of the Company's stock option plan and (ii) with an exercise price at least equal to the fair market value of the Common Stock on the date such stock option would be considered granted under GAAP and applicable law. No stock option granted under the Company's stock option plan has been backdated. The Company has not knowingly granted, and there is no and has been no Company policy or practice to knowingly grant, stock options prior to, or otherwise knowingly coordinate the grant of stock options with, the release or other public announcement of material information regarding the Company or its Subsidiaries or their financial results or prospects.

(nn) Office of Foreign Assets Control. Neither the Company nor any Subsidiary nor, to the Company's knowledge, any director, officer, agent, employee or Affiliate of the Company or any Subsidiary is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC").

(oo) U.S. Real Property Holding Corporation. The Company is not and has never been a U.S. real property holding corporation within the meaning of Section 897 of the Internal Revenue Code of 1986, as amended, and the Company shall so certify upon the Purchaser's request.

(pp) Bank Holding Company Act. Neither the Company nor any of its Subsidiaries or Affiliates is subject to the Bank Holding Company Act of 1956, as amended (the "BHCA") and to regulation by the Board of Governors of the Federal Reserve System (the "Federal Reserve"). Neither the Company nor any of its Subsidiaries or Affiliates owns or controls, directly or indirectly, five percent (5%) or more of the outstanding shares of any class of voting securities or twenty-five percent (25%) or more of the total equity of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve. Neither the Company nor any of its Subsidiaries or Affiliates exercises a controlling influence over the management or policies of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve.

(qq) Money Laundering. The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance with applicable financial record-keeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, applicable money laundering statutes and applicable rules and regulations thereunder (collectively, the "Money Laundering Laws"), and no Action or Proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any Subsidiary with respect to the Money Laundering Laws is pending or, to the knowledge of the Company or any Subsidiary, threatened.

(rr) No Disqualification Events. With respect to the Securities to be offered and sold hereunder in reliance on Rule 506 under the Securities Act, none of the Company, any of its predecessors, any affiliated issuer, any director, executive officer, other officer of the Company participating in the offering hereunder, any beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the Securities Act) connected with the Company in any capacity at the time of sale (each, an "Issuer Covered Person" and, together, "Issuer Covered Persons") is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3). The Company has exercised reasonable care to determine whether any Issuer Covered Person is subject to a Disqualification Event. The Company has complied, to the extent applicable, with its disclosure obligations under Rule 506(e), and has furnished to the Purchasers a copy of any disclosures provided thereunder.

(ss) Other Covered Persons. The Company is not aware of any Person (other than any Issuer Covered Person) that has been or will be paid (directly or indirectly) remuneration for solicitation of purchasers in connection with the sale of any Securities.

(tt) Notice of Disqualification Events. The Company will notify the Purchasers in writing, prior to the Closing Date of (i) any Disqualification Event relating to any Issuer Covered Person and (ii) any event that would, with the passage of time, become a Disqualification Event relating to any Issuer Covered Person.

(uu) Promotional Stock Activities. Neither the Company, its officers, its directors, nor any Affiliates or agents of the Company have engaged in any stock promotional activity that could give rise to a complaint, inquiry, or trading suspension by the Commission alleging (i) a violation of the anti-fraud provisions of the federal securities laws, (ii) violations of the anti-touting provisions, (iii) improper "gun-jumping, or (iv) promotion without proper disclosure of compensation.

(vv) Payments of Cash. Except as disclosed on Schedule 3.1(vv), neither the Company, its officers nor any Affiliates or agents of the Company have withdrawn or paid cash (not including a check or other similar negotiable instrument) to any vendor in an aggregate amount that exceeds Five Thousand Dollars ($5,000) for any purpose.

3.2 Representations and Warranties of the Purchasers. Each Purchaser, for itself and for no other Purchaser, hereby represents and warrants as of the date hereof and as of the Closing Date to the Company as follows (unless as of a specific date therein, in which case they shall be accurate as of such date):

(a) Organization; Authority. Such Purchaser is either an individual or an entity duly incorporated or formed, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation with full right, corporate, partnership, limited liability company or similar power and authority to enter into and to consummate the transactions contemplated by the Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of the Transaction Documents and performance by such Purchaser of the transactions contemplated by the Transaction Documents have been duly authorized by all necessary corporate, partnership, limited liability company or similar action, as applicable, on the part of such Purchaser. Each Transaction Document to which it is a party has been duly executed by such Purchaser, and when delivered by such Purchaser in accordance with the terms hereof, will constitute the valid and legally binding obligation of such Purchaser, enforceable against it in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(b) Own Account. Such Purchaser understands that the Securities are "restricted securities" and have not been registered under the Securities Act or any applicable state securities law and is acquiring the Securities as principal for its own account and not with a view to or for distributing or reselling such Securities or any part thereof in violation of the Securities Act or any applicable state securities law, has no present intention of distributing any of such Securities in violation of the Securities Act or any applicable state securities law and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such Securities in violation of the Securities Act or any applicable state securities law (this representation and warranty not limiting such Purchaser's right to sell the Securities in compliance with applicable federal and state securities laws). Such Purchaser is acquiring the Securities hereunder in the ordinary course of its business.

(c) Purchaser Status. At the time such Purchaser was offered the Securities, it was, and as of the date hereof it is, and on each date on which it converts the Notes it will be an "accredited investor" as defined in Rule 501(a)(1), (a)(2), (a)(3), (a)(7) or (a)(8) under the Securities Act.

(d) Experience of Such Purchaser. Such Purchaser, either alone or together with its representatives, has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Securities, and has so evaluated the merits and risks of such investment. Such Purchaser is able to bear the economic risk of an investment in the Securities and, at the present time, is able to afford a complete loss of such investment.

(e) General Solicitation. Such Purchaser is not, to such Purchaser's knowledge, purchasing the Securities as a result of any advertisement, article, notice or other communication regarding the Securities published in any newspaper, magazine or similar media or broadcast over television or radio or presented at any seminar or, to the knowledge of such Purchaser, any other general solicitation or general advertisement.

(f) Certain Transactions. Other than consummating the transactions contemplated hereunder, such Purchaser has not, nor has any Person acting on behalf of or pursuant to any understanding with such Purchaser, directly or indirectly executed any purchases or sales, including Short Sales, of the securities of the Company during the period commencing as of the time that such Purchaser first received a term sheet (written or oral) from the Company or any other Person representing the Company setting forth the material terms of the transactions contemplated hereunder and ending immediately prior to the execution hereof.

**ARTICLE IV.**
**OTHER AGREEMENTS OF THE PARTIES**

4.1 Transfer Restrictions.

(a) The Securities may only be disposed of in compliance with state and federal securities laws. In connection with any transfer of Securities other than pursuant to an effective registration statement or Rule 144, to the Company or to an Affiliate of a Purchaser or in connection with a pledge as contemplated in Section 4.1(b), the Company may require the transferor thereof to provide to the Company an opinion of counsel selected by the transferor and reasonably acceptable to the Company, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Securities under the Securities Act. As a condition of transfer, any such transferee shall agree in writing to be bound by the terms of this Agreement and shall have the rights and obligations of a Purchaser under this Agreement.

(b) The Purchasers agree to the imprinting, so long as is required by this Section 4.1, of a legend on any of the Securities in the following form:

**[NEITHER] THIS SECURITY [NOR THE SECURITIES INTO WHICH THIS SECURITY IS [CONVERTIBLE]] HAS [NOT] BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY [AND THE SECURITIES ISSUABLE UPON [CONVERSION] OF THIS SECURITY] MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT WITH A REGISTERED BROKER-DEALER OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY SUCH SECURITIES.**

The Company acknowledges and agrees that a Purchaser may from time to time pledge pursuant to a bona fide margin agreement with a registered broker-dealer or grant a security interest in some or all of the Securities to a financial institution that is an "accredited investor" as defined in Rule 501(a) under the Securities Act and, if required under the terms of such arrangement, such Purchaser may transfer pledged or secured Securities to the pledgees or secured parties. Such a pledge or transfer would not be subject to approval of the Company and no legal opinion of legal counsel of the pledgee, secured party or pledgor shall be required in connection therewith. Further, no notice shall be required of such pledge. At the Company's expense, the Company will execute and deliver such reasonable documentation as a pledgee or secured party of Securities may reasonably request in connection with a pledge or transfer of the Securities.

(c) Certificates evidencing the Conversion Shares shall not contain any legend (including the legend set forth in Section 4.1(b) hereof): (i) while a registration statement covering the resale of such security is effective under the Securities Act, (ii) following any sale of such Conversion Shares pursuant to Rule 144, (iii) if such Conversion Shares are eligible for sale under Rule 144 or (iv) if such legend is not required under applicable requirements of the Securities Act (including judicial interpretations and pronouncements issued by the staff of the Commission). The Company shall cause its counsel to issue a legal opinion to the Transfer Agent or the Purchaser promptly if required by the Transfer Agent to effect the removal of the legend hereunder or if requested by a Purchaser. If all or any portion of a Note is converted at a time when there is an effective registration statement to cover the resale of the Conversion Shares, or if such Conversion Shares may be sold under Rule 144 without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Conversion Shares and without volume or manner-of-sale restrictions or if such legend is not otherwise required under applicable requirements of the Securities Act (including judicial interpretations and pronouncements issued by the staff of the Commission) then such Conversion Shares shall be issued free of all legends. The Company agrees that following such time as such legend is no longer required under this Section 4.1(c), it will, no later than the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined below) following the delivery by a Purchaser to the Company or the Transfer Agent of a certificate representing Conversion Shares issued with a restrictive legend (such date, the "Legend Removal Date"), deliver or cause to be delivered to such Purchaser a certificate representing such shares that is free from all restrictive and other legends. The Company may not make any notation on its records or give instructions to the Transfer Agent that enlarge the restrictions on transfer set forth in this Section 4. Certificates for Conversion Shares subject to legend removal hereunder shall be transmitted by the Transfer Agent to the Purchaser by crediting the account of the Purchaser's prime broker with the Depository Trust Company System as directed by such Purchaser. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Company's principal Trading Market with respect to the Common Stock as in effect on the date of delivery of a certificate representing Conversion Shares issued with a restrictive legend.

(d) In addition to such Purchaser's other available remedies, (i) the Company shall pay to a Purchaser, in cash, as partial liquidated damages and not as a penalty, for each $1,000 of Conversion Shares (based on the VWAP of the Common Stock on the date such Conversion Shares are submitted to the Transfer Agent for removal of the restrictive legend) delivered for removal of the restrictive legend and subject to Section 4.1(c), $10 per Trading Day (increasing to $20 per Trading Day five (5) Trading Days after such damages have begun to accrue) for each Trading Day after the Legend Removal Date until such certificate is delivered without a legend and (ii) if the Company fails to (A) issue and deliver (or cause to be delivered) to a Purchaser by the Legend Removal Date a certificate representing the Conversion Shares so delivered to the Company by such Purchaser that is free from all restrictive and other legends and (B) if after the Legend Removal Date such Purchaser purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by such Purchaser of all or any portion of the number of shares of Common Stock, or a sale of a number of shares of Common Stock equal to all or any portion of the number of shares of Common Stock that such Purchaser anticipated receiving from the Company without any restrictive legend, then, an amount equal to the excess of such Purchaser's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (including brokerage commissions and other out-of-pocket expenses, if any) (the "Buy-In Price") over the product of (x) such number of Conversion Shares that the Company was required to deliver to such Purchaser by the Legend Removal Date multiplied by (y) the lowest closing sale price of the Common Stock on any Trading Day during the period commencing on the date of the delivery by such Purchaser to the Company of the applicable Conversion Shares and ending on the date of such delivery and payment under this clause (ii).

4.2 Acknowledgment of Dilution. The Company acknowledges that the issuance of the Securities may result in dilution of the outstanding shares of Common Stock, which dilution may be substantial under certain market conditions. The Company further acknowledges that its obligations under the Transaction Documents, including, without limitation, its obligation to issue the Conversion Shares pursuant to the Transaction Documents, are unconditional and absolute and not subject to any right of set off, counterclaim, delay or reduction, regardless of the effect of any such dilution or any claim the Company may have against any Purchaser and regardless of the dilutive effect that such issuance may have on the ownership of the other stockholders of the Company.

4.3 Furnishing of Information; Public Information.

(a) Until the time that no Purchaser owns Securities, the Company covenants to maintain the registration of the Common Stock under Section 12(b) or 12(g) of the Exchange Act and to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to the Exchange Act even if the Company is not then subject to the reporting requirements of the Exchange Act.

(b) At any time during the period commencing from the six (6)-month anniversary of the date hereof and ending at such time that all of the Securities may be sold without the requirement for the Company to be in compliance with Rule 144(c)(1) and otherwise without restriction or limitation pursuant to Rule 144, if the Company (i) shall fail for any reason to satisfy the current public information requirement under Rule 144(c) or (ii) has ever been an issuer described in Rule 144 (i)(1)(i) or becomes an issuer in the future, and the Company shall fail to satisfy any condition set forth in Rule 144(i)(2) (a "Public Information Failure") then, in addition to such Purchaser's other available remedies, the Company shall pay to a Purchaser, in cash, as partial liquidated damages and not as a penalty, by reason of any such delay in or reduction of its ability to sell the Securities, an amount in cash equal to two percent (2.0%) of the aggregate Subscription Amount of such Purchaser's Securities on the day of a Public Information Failure and on every thirtieth (30th) day (pro rated for periods totaling less than thirty (30) days) thereafter until the earlier of (a) the date such Public Information Failure is cured and (b) such time that such public information is no longer required for the Purchasers to transfer the Conversion Shares pursuant to Rule 144. The payments to which a Purchaser shall be entitled pursuant to this Section 4.3(b) are referred to herein as "Public Information Failure Payments." Public Information Failure Payments shall be paid on the earlier of (i) the last day of the calendar month during which such Public Information Failure Payments are incurred and (ii) the third (3rd) Business Day after the event or failure giving rise to the Public Information Failure Payments is cured. In the event the Company fails to make Public Information Failure Payments in a timely manner, such Public Information Failure Payments shall bear interest at the rate of 1.5% per month (prorated for partial months) until paid in full. Nothing herein shall limit such Purchaser's right to pursue actual damages for the Public Information Failure, and such Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief.

4.4 Integration. The Company shall not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2 of the Securities Act) that would be integrated with the offer or sale of the Securities in a manner that would require the registration under the Securities Act of the sale of the Securities or that would be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any Trading Market such that it would require stockholder approval prior to the closing of such other transaction unless stockholder approval is obtained before the closing of such subsequent transaction.

4.5 Conversion Procedures. The form of Notice of Conversion included in the Notes sets forth the totality of the procedures required of the Purchasers in order to convert the Notes. Without limiting the preceding sentences, no ink-original Notice of Conversion shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Conversion form be required in order to convert the Notes. No additional legal opinion, other information or instructions shall be required of the Purchasers to convert their Notes. The Company shall honor conversions of the Notes and shall deliver Conversion Shares in accordance with the terms, conditions and time periods set forth in the Transaction Documents.

4.6 Securities Laws Disclosure; Publicity. The Company shall (a) by the Disclosure Time, issue a press release disclosing the material terms of the transactions contemplated hereby, and (b) file a Current Report on Form 8-K, including the Transaction Documents as exhibits thereto, with the Commission within the time required by the Exchange Act. From and after the issuance of such press release, the Company represents to the Purchasers that it shall have publicly disclosed all material, non-public information delivered to any of the Purchasers by the Company or any of its Subsidiaries, or any of their respective officers, directors, employees or agents in connection with the transactions contemplated by the Transaction Documents. In addition, effective upon the issuance of such press release, the Company acknowledges and agrees that any and all confidentiality or similar obligations under any agreement, whether written or oral, between the Company, any of its Subsidiaries or any of their respective officers, directors, agents, employees or Affiliates on the one hand, and any of the Purchasers or any of their Affiliates on the other hand, shall terminate. The Company and each Purchaser shall consult with each other in issuing any other press releases with respect to the transactions contemplated hereby, and neither the Company nor any Purchaser shall issue any such press release nor otherwise make any such public statement without the prior consent of the Company, with respect to any press release of any Purchaser, or without the prior consent of each Purchaser, with respect to any press release of the Company, which consent shall not unreasonably be withheld or delayed, except if such disclosure is required by law, in which case the disclosing party shall promptly provide the other party with prior notice of such public statement or communication. Notwithstanding the foregoing, the Company shall not publicly disclose the name of any Purchaser, or include the name of any Purchaser in any filing with the Commission or any regulatory agency or Trading Market, without the prior written consent of such Purchaser, except (x) as required by federal securities law in connection with the filing of final Transaction Documents with the Commission and (y) to the extent such disclosure is required by law or Trading Market regulations, in which case the Company shall provide the Purchasers with prior notice of such disclosure permitted under this clause (y).

4.7 Stockholder Rights Plan. No claim will be made or enforced by the Company or, with the consent of the Company, any other Person, that any Purchaser is an "Acquiring Person" under any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or similar anti-takeover plan or arrangement in effect or hereafter adopted by the Company, or that any Purchaser could be deemed to trigger the provisions of any such plan or arrangement, by virtue of receiving Securities under the Transaction Documents or under any other agreement between the Company and the Purchasers.

4.8 Non-Public Information. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, which shall be disclosed pursuant to Section 4.6, the Company covenants and agrees that neither it, nor any other Person acting on its behalf will provide any Purchaser or its agents or counsel with any information that constitutes, or the Company reasonably believes constitutes, material non-public information, unless prior thereto such Purchaser shall have consented to the receipt of such information and agreed with the Company to keep such information confidential. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company. To the extent that the Company delivers any material, non-public information to a Purchaser without such Purchaser's consent, the Company hereby covenants and agrees that such Purchaser shall not have any duty of confidentiality to the Company, any of its Subsidiaries, or any of their respective officers, directors, agents, employees or Affiliates, or a duty to the Company, any of its Subsidiaries or any of their respective officers, directors, agents, employees or Affiliates not to trade on the basis of, such material, non-public information, provided that the Purchaser shall remain subject to applicable law. To the extent that any notice provided pursuant to any Transaction Document constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company.

4.9 Use of Proceeds. The Company shall use the net proceeds from the sale of the Securities hereunder for working capital purposes and shall not use such proceeds: (a) for the satisfaction of any portion of the Company's debt (other than payment of trade payables in the ordinary course of the Company's business and prior practices), (b) for the redemption of any Common Stock or Common Stock Equivalents, (c) for the settlement of any outstanding litigation or (d) in violation of FCPA or OFAC regulations.

4.10 Indemnification of Purchasers. Subject to the provisions of this Section 4.10, the Company will indemnify and hold each Purchaser and its directors, officers, shareholders, members, partners, employees and agents (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title), each Person who controls such Purchaser (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, shareholders, agents, members, partners or employees (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title) of such controlling persons (each, a "Purchaser Party") harmless from any and all losses, liabilities, obligations, claims, contingencies, damages, costs and expenses, including all judgments, amounts paid in settlements, court costs and reasonable attorneys' fees and costs of investigation that any such Purchaser Party may suffer or incur as a result of or relating to (a) any breach of any of the representations, warranties, covenants or agreements made by the Company in this Agreement or in the other Transaction Documents or (b) any action instituted against the Purchaser Parties in any capacity, or any of them or their respective Affiliates, by any stockholder of the Company who is not an Affiliate of such Purchaser Party, with respect to any of the transactions contemplated by the Transaction Documents (unless such action is solely based upon a material breach of such Purchaser Party's representations, warranties or covenants under the Transaction Documents or any agreements or understandings such Purchaser Party may have with any such stockholder or any violations by such Purchaser Party of state or federal securities laws or any conduct by such Purchaser Party which is finally judicially determined to constitute fraud, gross negligence or willful misconduct). If any action shall be brought against any Purchaser Party in respect of which indemnity may be sought pursuant to this Agreement, such Purchaser Party shall promptly notify the Company in writing, and the Company shall have the right to assume the defense thereof with counsel of its own choosing reasonably acceptable to the Purchaser Party. Any Purchaser Party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Purchaser Party except to the extent that (i) the employment thereof has been specifically authorized by the Company in writing, (ii) the Company has failed after a reasonable period of time to assume such defense and to employ counsel or (iii) in such action there is, in the reasonable opinion of counsel, a material conflict on any material issue between the position of the Company and the position of such Purchaser Party, in which case the Company shall be responsible for the reasonable fees and expenses of no more than one such separate counsel. The Company will not be liable to any Purchaser Party under this Agreement (x) for any settlement by a Purchaser Party effected without the Company's prior written consent, which shall not be unreasonably withheld or delayed; or (y) to the extent, but only to the extent that a loss, claim, damage or liability is attributable to any Purchaser Party's breach of any of the representations, warranties, covenants or agreements made by such Purchaser Party in this Agreement or in the other Transaction Documents. The indemnification required by this Section 4.10 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or are incurred. The indemnity agreements contained herein shall be in addition to any cause of action or similar right of any Purchaser Party against the Company or others and any liabilities the Company may be subject to pursuant to law.

4.11 Reservation and Listing of Securities.

(a) Upon the occurrence of an Event of Default (as defined in the Notes), the Company shall maintain a reserve equal to 200% of the Required Minimum from its duly authorized shares of Common Stock for issuance pursuant to the Transaction Documents.

(b) If, on or after the occurrence of an Event of Default, the number of authorized but unissued (and otherwise unreserved) shares of Common Stock is less than 200% of the Required Minimum on such date, then the Board of Directors shall use commercially reasonable efforts to amend the Company's certificate or articles of incorporation to increase the number of authorized but unissued shares of Common Stock to at least 200% of the Required Minimum at such time, as soon as possible and in any event not later than the 75th day after such date.

(c) The Company shall, if applicable: (i) in the time and manner required by the principal Trading Market, prepare and file with such Trading Market an additional shares listing application covering a number of shares of Common Stock at least equal to 200% of the Required Minimum on the date of such application; (ii) take all steps necessary to cause such shares of Common Stock to be approved for listing or quotation on such Trading Market as soon as possible thereafter; (iii) provide to the Purchasers evidence of such listing or quotation; and (iv) maintain the listing or quotation of such Common Stock on any date at least equal to 200% of the Required Minimum on such date on such Trading Market or another Trading Market. The Company agrees to maintain the eligibility of the Common Stock for electronic transfer through the Depository Trust Company or another established clearing corporation, including, without limitation, by timely payment of fees to the Depository Trust Company or such other established clearing corporation in connection with such electronic transfer.

4.12 [Reserved].

4.13 Subsequent Equity Sales.

(a) From the date hereof until the six (6)-month anniversary of the date hereof, the Company shall be prohibited from effecting or entering into an agreement to effect any issuance by the Company or any of its Subsidiaries of Common Stock or Common Stock Equivalents (or a combination of units thereof) involving a Variable Rate Transaction. "Variable Rate Transaction" means a transaction in which the Company (i) issues or sells any debt or equity securities that are convertible into, exchangeable or exercisable for, or include the right to receive, additional shares of Common Stock either (A) at a conversion price, exercise price or exchange rate or other price that is based upon, and/or varies with, the trading prices of or quotations for the shares of Common Stock at any time after the initial issuance of such debt or equity securities or (B) with a conversion, exercise or exchange price that is subject to being reset at some future date after the initial issuance of such debt or equity security or upon the occurrence of specified or contingent events directly or indirectly related to the business of the Company or the market for the Common Stock or (ii) enters into, or effects a transaction under, any agreement, including, but not limited to, an equity line of credit, whereby the Company may issue securities at a future determined price. Any Purchaser shall be entitled to obtain injunctive relief against the Company to preclude any such issuance, which remedy shall be in addition to any right to collect damages.

(b) Notwithstanding the foregoing, this Section 4.13 shall not apply in respect of an Exempt Issuance, except that no Variable Rate Transaction shall be an Exempt Issuance.

4.14 [Reserved].

4.15 Certain Transactions and Confidentiality. Each Purchaser, severally and not jointly with the other Purchasers, covenants that neither it, nor any Affiliate acting on its behalf or pursuant to any understanding with it will execute any purchases or sales, including Short Sales, of any of the Company's securities during the period commencing with the execution of this Agreement and ending at such time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.6. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Purchaser's assets, the covenant set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement. Each Purchaser, severally and not jointly with the other Purchasers, covenants that until such time as the transactions contemplated by this Agreement are publicly disclosed by the Company pursuant to the initial press release as described in Section 4.6, such Purchaser will maintain the confidentiality of the existence and terms of this transaction and the information included in the Disclosure Schedules.

4.16 [Reserved].

4.17 Exchange Transactions. During the period commencing on the date hereof and for so long as any of the Securities remain outstanding, neither the Company nor any of its Affiliates or Subsidiaries, nor any of its or their respective officers, employees, directors, agents or other representatives, will, without the prior written consent of the Purchaser (which consent may be withheld, delayed or conditioned in the Purchaser's sole discretion), directly or indirectly: (a) solicit, initiate, encourage or accept any other inquiries, proposals or offers from any Person (other than the Purchaser) relating to any exchange (i) of any security of the Company or any of its Subsidiaries for any other security of the Company or any of its Subsidiaries; or (ii) of any indebtedness or other securities of, or claim against, the Company or any of its Subsidiaries relying on the exemption provided by Section 3(a)(10) of the Securities Act (any such transaction described in clauses (i) or (ii), an "Exchange Transaction"); (b) enter into, effect, alter, amend, announce or recommend to its stockholders any Exchange Transaction with any Person (other than the Purchaser); or (c) participate in any discussions, conversations, negotiations or other communications with any Person (other than the Purchaser) regarding any Exchange Transaction, or furnish to any Person (other than the Purchaser) any information with respect to any Exchange Transaction, or otherwise cooperate in any way, assist or participate in, facilitate or encourage any effort or attempt by any Person (other than the Purchaser) to seek an Exchange Transaction involving the Company or any of its Subsidiaries. In addition, for so long as any of the Securities remain outstanding, neither the Company nor any of its Affiliates or Subsidiaries, nor any of its or their respective officers, employees, directors, agents or other representatives, will, without the prior written consent of the Purchaser (which consent may be withheld, delayed or conditioned in the Purchaser's sole discretion), directly or indirectly, cooperate in any way, assist or participate in, facilitate or encourage any effort or attempt by any Person (other than the Purchaser) to effect any acquisition of securities or indebtedness of, or claim against, the Company by such Person from an existing Purchaser of such securities, indebtedness or claim in connection with a proposed exchange of such securities or indebtedness of, or claim against, the Company (whether pursuant to Section 3(a)(9) or 3(a)(10) of the Securities Act or otherwise) (a "Third Party Exchange Transfer"). The Company, its Affiliates and Subsidiaries, and each of its and their respective officers, employees, directors, agents or other representatives shall immediately cease and cause to be terminated all existing discussions, conversations, negotiations and other communications with any Persons (other than the Purchaser) with respect to any of the foregoing. The Company shall promptly (and in no event later than 24 hours after receipt) notify (which notice shall be provided orally and in writing and shall identify the Person making the inquiry, request, proposal or offer and set forth the material terms thereof) the Purchaser after receipt of any inquiry, request, proposal or offer relating to any Exchange Transaction or Third Party Exchange Transfer, and shall promptly (and in no event later than 24 hours after receipt) provide copies to the Purchaser of any written inquiries, requests, proposals or offers relating thereto. The Company agrees that it and its Affiliates and Subsidiaries, and each of its and their respective officers, employees, directors, agents or other representatives Subsidiaries will not enter into any agreement with any Person subsequent to the date hereof which prohibits the Company from providing any information to the Purchaser in accordance with this provision. For all purposes of this Agreement, violations of the restrictions set forth in this Section 4.17 by any Subsidiary or Affiliate of the Company, or any officer, employee, director, agent or other representative of the Company or any of its Subsidiaries or Affiliates shall be deemed a direct breach of this Section 4.17 by the Company.

4.18 Form D; Blue Sky Filings. The Company agrees to timely file a Form D with respect to the Securities as required under Regulation D and to provide a copy thereof, promptly upon request of any Purchaser. The Company shall take such action as the Company shall reasonably determine is necessary in order to obtain an exemption for, or to qualify the Securities for, sale to the Purchasers at the Closing under applicable securities or "Blue Sky" laws of the states of the United States, and shall provide evidence of such actions promptly upon request of any Purchaser.

4.19 Issuance of Additional Shares of Common Stock. In the event that any Note remains outstanding for sixty (60) calendar days subsequent to the Original Issue Date (as defined in the Notes), the Company shall issue to the Purchasers an aggregate of 129,085 shares of Common Stock[2] on the sixty-first (61st) calendar day subsequent to the Original Issue Date.

2 The Company effectuated a one-for-15 reverse split of the shares of its Common Stock at the close of business on February 1, 2019. Accordingly, for the avoidance of doubt, the post-reverse split number of Commitment Shares shall become 16,667 and the number of post-reverse split shares referenced in this Section 4.19 shall become 8,606.

**ARTICLE V.**
**MISCELLANEOUS**

5.1 Termination. This Agreement may be terminated by any Purchaser, as to such Purchaser's obligations hereunder only and without any effect whatsoever on the obligations between the Company and the other Purchasers, by written notice to the other parties, if the Closing has not been consummated on or before the fifth ($5^{th}$) Trading Day following the date hereof, provided, however, that no such termination will affect the right of any party to sue for any breach by any other party (or parties).

5.2 Fees and Expenses. At the Closing, the Company has agreed to reimburse the Purchasers for their reasonable out-of-pocket expenses, including legal fees and disbursements of Robinson Brog in connection with the purchase and sale of the Securities contemplated hereby; provided that such reimbursement obligation shall not exceed $10,000. Except as expressly set forth in the Transaction Documents to the contrary, each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement and the other Transaction Documents. The Company shall pay all Transfer Agent fees (including, without limitation, any fees required for same-day processing of any instruction letter delivered by the Company and any conversion notice delivered by a Purchaser), stamp taxes and other taxes and duties levied in connection with the delivery of any Securities to the Purchasers.

5.3 Entire Agreement. The Transaction Documents, together with the exhibits and schedules thereto, contain the entire understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents, exhibits and schedules.

5.4 Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of: (a) the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or email attachment at the email address as set forth on the signature pages attached hereto at or prior to 5:30 p.m. (New York City time) on a Trading Day, (b) the next Trading Day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or email attachment as set forth on the signature pages attached hereto on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (c) the second (2nd) Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service or (d) upon actual receipt by the party to whom such notice is required to be given. The address for such notices and communications shall be as set forth on the signature pages attached hereto. To the extent that any notice provided pursuant to any Transaction Document constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K.

5.5 Amendments; Waivers. No provision of this Agreement may be waived, modified, supplemented or amended except in a written instrument signed, in the case of an amendment, by the Company and the Purchasers which purchased at least a majority in interest of the Notes based on the initial Subscription Amounts hereunder or, in the case of a waiver, by the party against whom enforcement of any such waived provision is sought, provided that if any amendment, modification or waiver disproportionately and adversely impacts a Purchaser (or group of Purchasers), the consent of such disproportionately impacted Purchaser (or group of Purchasers) shall also be required. No waiver of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any subsequent default or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right. Any proposed amendment or waiver that disproportionately, materially and adversely affects the rights and obligations of any Purchaser relative to the comparable rights and obligations of the other Purchasers shall require the prior written consent of such adversely affected Purchaser. Any amendment effected in accordance with this Section 5.5 shall be binding upon each Purchaser and holder of Securities and the Company.

5.6 Headings. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

5.7 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of each Purchaser (other than by merger). Any Purchaser may assign any or all of its rights under this Agreement to any Person to whom such Purchaser assigns or transfers any Securities, provided that such transferee agrees in writing to be bound, with respect to the transferred Securities, by the provisions of the Transaction Documents that apply to the "Purchasers."

5.8 No Third-Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as otherwise set forth in Section 4.10.

5.9 Governing Law. All questions concerning the construction, validity, enforcement and interpretation of the Transaction Documents shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof. Each party agrees that all legal Proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Agreement and any other Transaction Documents (whether brought against a party hereto or its respective affiliates, directors, officers, shareholders, partners, members, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the City of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the City of New York, Borough of Manhattan for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any Action or Proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such Action or Proceeding is improper or is an inconvenient venue for such Proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such Action or Proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. If any party shall commence an Action or Proceeding to enforce any provisions of the Transaction Documents, then, in addition to the obligations of the Company under Section 4.10, the prevailing party in such Action or Proceeding shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Action or Proceeding.

5.10 Survival. The representations and warranties contained herein shall survive the Closing and the delivery of the Securities.

5.11 Execution. This Agreement may be executed in two (2) or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to each other party, it being understood that the parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

5.12 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

5.13 Rescission and Withdrawal Right. Notwithstanding anything to the contrary contained in (and without limiting any similar provisions of) any of the other Transaction Documents, whenever any Purchaser exercises a right, election, demand or option under a Transaction Document and the Company does not timely perform its related obligations within the periods therein provided, then such Purchaser may rescind or withdraw, in its sole discretion from time to time upon written notice to the Company, any relevant notice, demand or election in whole or in part without prejudice to its future actions and rights; provided, however, that, in the case of a rescission of a conversion of a Note, the applicable Purchaser shall be required to return any shares of Common Stock subject to any such rescinded conversion notice.

5.14 Replacement of Securities. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof (in the case of mutilation), or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction. The applicant for a new certificate or instrument under such circumstances shall also pay any reasonable third-party costs (including customary indemnity) associated with the issuance of such replacement Securities.

5.15 Remedies. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each of the Purchasers and the Company will be entitled to specific performance under the Transaction Documents. The parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations contained in the Transaction Documents and hereby agree to waive and not to assert in any Action for specific performance of any such obligation the defense that a remedy at law would be adequate.

5.16 Payment Set Aside. To the extent that the Company makes a payment or payments to any Purchaser pursuant to any Transaction Document or a Purchaser enforces or exercises its rights thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company, a trustee, receiver or any other Person under any law (including, without limitation, any bankruptcy law, state or federal law, common law or equitable cause of action), then, to the extent of any such restoration, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

5.17 Usury. To the extent it may lawfully do so, the Company hereby agrees not to insist upon or plead or in any manner whatsoever claim, and will resist any and all efforts to be compelled to take the benefit or advantage of, usury laws wherever enacted, now or at any time hereafter in force, in connection with any Action or Proceeding that may be brought by any Purchaser in order to enforce any right or remedy under any Transaction Document. Notwithstanding any provision to the contrary contained in any Transaction Document, it is expressly agreed and provided that the total liability of the Company under the Transaction Documents for payments in the nature of interest shall not exceed the maximum lawful rate authorized under applicable law (the "Maximum Rate"), and, without limiting the foregoing, in no event shall any rate of interest or default interest, or both of them, when aggregated with any other sums in the nature of interest that the Company may be obligated to pay under the Transaction Documents exceed such Maximum Rate. It is agreed that if the maximum contract rate of interest allowed by law and applicable to the Transaction Documents is increased or decreased by statute or any official governmental action subsequent to the date hereof, the new maximum contract rate of interest allowed by law will be the Maximum Rate applicable to the Transaction Documents from the effective date thereof forward, unless such application is precluded by applicable law. If under any circumstances whatsoever, interest in excess of the Maximum Rate is paid by the Company to any Purchaser with respect to indebtedness evidenced by the Transaction Documents, such excess shall be applied by such Purchaser to the unpaid principal balance of any such indebtedness or be refunded to the Company, the manner of handling such excess to be at such Purchaser's election.

5.18 [Reserved].

5.19 Liquidated Damages. The Company's obligations to pay any partial liquidated damages or other amounts owing under the Transaction Documents is a continuing obligation of the Company and shall not terminate until all unpaid partial liquidated damages and other amounts have been paid notwithstanding the fact that the instrument or security pursuant to which such partial liquidated damages or other amounts are due and payable shall have been canceled.

5.20 Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Business Day, then such action may be taken or such right may be exercised on the next succeeding Business Day.

5.21 Construction. The parties agree that each of them and/or their respective counsel have reviewed and had an opportunity to revise the Transaction Documents and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Transaction Documents or any amendments thereto. In addition, each and every reference to share prices and shares of Common Stock in any Transaction Document shall be subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock that occur after the date of this Agreement.

5.22 **WAIVER OF JURY TRIAL. IN ANY ACTION, SUIT, OR PROCEEDING IN ANY JURISDICTION BROUGHT BY ANY PARTY AGAINST ANY OTHER PARTY, EACH OF THE PARTIES KNOWINGLY AND INTENTIONALLY, TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY ABSOLUTELY, UNCONDITIONALLY, IRREVOCABLY AND EXPRESSLY WAIVES FOREVER TRIAL BY JURY.**

*(Signature Pages Follow)*

IN WITNESS WHEREOF, the parties hereto have caused this Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

VERB TECHNOLOGY COMPANY, INC.

By: _____
Name: Rory J. Cutaia
Title: President and Chief Executive Officer

Address for Notice:

E-mail: RORY@myverb.com
Fax:

With a copy to (which shall not constitute notice):

Baker & Hostetler LLP
600 Anton Blvd., Suite 900
Costa Mesa, California 92626
Randolf W. Katz
e-mail: rwkatz@bakerlaw.com
facsimile no.: 714-966-8802

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOR PURCHASERS FOLLOWS]

[PURCHASER SIGNATURE PAGE TO VERB SECURITIES PURCHASE AGREEMENT]

IN WITNESS WHEREOF, the undersigned have caused this Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

Name of Purchaser: _____

Signature of Authorized Signatory of Purchaser: _____

Name of Authorized Signatory: _____

Title of Authorized Signatory: _____

Email Address of Authorized Signatory: _____

Facsimile Number of Authorized Signatory: _____

Address for Notice to Purchaser:

Address for Delivery of Securities to Purchaser (if not same as address for notice):

Subscription Amount: $_____

EIN Number: _____

**Exhibit A**

**Form of 5% Original Issue Discount Promissory Note**

**NFÜSZ, INC.**
344 South Hauser Blvd., Suite 414
Los Angeles, California 90036

October 30, 2018

[Investor name and address]

Re: Lock-Up of Conversion Shares

Dear [investor name]:

In connection with the transaction memorialized by that certain Convertible Promissory Note, dated October 30, 2018 (the "**Note**"), you agreed not to offer, pledge, sell, contract to sell, grant, lend, or otherwise transfer or dispose of, directly or indirectly, any of the Conversion Shares (as that term is defined in the Note) for a period of 90 days following their issuance (the "**Lock-Up**"). The Conversion Shares are to be issued to you pursuant to a Mandatory Conversion (as that term is defined in the Note). This letter formalizes our agreement for the Lock-Up.

You have been informed that A.G.P. / Alliance Global Partners (the "**Representative**") proposes to enter into an Underwriting Agreement (the "**Underwriting Agreement**") with us (the "**Company**"), providing for the public offering (the "**Public Offering**") of shares of our common stock, as preliminarily set forth in our Registration Statement on Form S-1, SEC File No. 333-226840, the initial filing of which having been made on August 14, 2018.

To induce the Representative to continue its efforts in connection with the Public Offering, you hereby agree that, without the prior written consent of the Representative, you will not, during the period commencing on the date hereof and ending 90 days after the date of the final prospectus (the "**Prospectus**") relating to the Public Offering (the "**Lock-Up Period**"), (1) offer, pledge, sell, contract to sell, grant, lend, or otherwise transfer or dispose of, directly or indirectly, any of the Conversion Shares or any securities exchangeable for the Conversion Shares (collectively, the "**Lock-Up Securities**"); (2) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the Lock-Up Securities, whether any such transaction described in clause (1) above or this clause (2) is to be settled by delivery of Lock-Up Securities, in cash or otherwise; (3) make any demand for or exercise any right with respect to the registration of any Lock-Up Securities; or (4) publicly disclose the intention to make any offer, sale, pledge or disposition, or to enter into any transaction, swap, hedge or other arrangement relating to any Lock-Up Securities. Notwithstanding the foregoing, and subject to the conditions below, you may transfer Lock-Up Securities without the prior written consent of the Representative in connection with (a) transfers of Lock-Up Securities as a *bona fide* gift, by will or intestacy or to a family member or trust for the benefit of a family member (for purposes of this letter agreement, "family member" means any relationship by blood, marriage or adoption, not more remote than first cousin) or (b) transfers of Lock-Up Securities to a charity or educational institution; provided that (i) any such transfer shall not involve a disposition for value, (ii) each transferee shall sign and deliver to the us and to the Representative a letter agreement substantially in the form of this letter agreement, and (iii) no filing under Section 16(a) of the Securities Exchange Act of 1934, as amended, shall be required or shall be voluntarily made. You also agree and consent to the entry of stop transfer instructions with the Company's transfer agent and registrar against the transfer of the Lock-Up Securities except in compliance herewith.

You agree that, prior to engaging in any transaction or taking any other action that is subject to the terms of this letter agreement during the period from the date hereof to and including the 30th day following the expiration of the Lock-Up Period, you will give notice thereof to the Company and will not consummate any such transaction or take any such action unless it has received written confirmation from the Company that the Lock-Up Period has expired.

You understand that the Company and the Representative are relying upon this letter agreement in proceeding toward consummation of the Public Offering. You further understand that this letter agreement is irrevocable and shall be binding upon your heirs, legal representatives, successors, and assigns.

Whether or not the Public Offering actually occurs depends on a number of factors, including market conditions. Any Public Offering will only be made pursuant to an Underwriting Agreement, the terms of which remain subject to negotiation between the Company and the Representative.

Very truly yours,

**NFÜSZ, INC.**

By: _____
Rory Cutaia, Chief Executive Officer

ACKNOWLEDGED AND AGREED:

_____

**NFÜSZ, INC.**
344 South Hauser Blvd., Suite 414
Los Angeles, California 90036

October 30, 2018

[Investor name and address]

Re: Lock-Up of Conversion Shares

Dear [investor name]:

In connection with the transaction memorialized by that certain Convertible Promissory Note, dated October 30, 2018 (the "**Note**"), you agreed not to offer, pledge, sell, contract to sell, grant, lend, or otherwise transfer or dispose of, directly or indirectly, any of the Conversion Shares (as that term is defined in the Note) for a period of 90 days following their issuance (the "**Lock-Up**"). The Conversion Shares are to be issued to you pursuant to a Mandatory Conversion (as that term is defined in the Note). This letter formalizes our agreement for the Lock-Up.

You have been informed that A.G.P. / Alliance Global Partners (the "**Representative**") proposes to enter into an Underwriting Agreement (the "**Underwriting Agreement**") with us (the "**Company**"), providing for the public offering (the "**Public Offering**") of shares of our common stock, as preliminarily set forth in our Registration Statement on Form S-1, SEC File No. 333-226840, the initial filing of which having been made on August 14, 2018.

To induce the Representative to continue its efforts in connection with the Public Offering, you hereby agree that, without the prior written consent of the Representative, you will not, during the period commencing on the date hereof and ending 90 days after the date of the final prospectus (the "**Prospectus**") relating to the Public Offering (the "**Lock-Up Period**"), (1) offer, pledge, sell, contract to sell, grant, lend, or otherwise transfer or dispose of, directly or indirectly, any of the Conversion Shares or any securities exchangeable for the Conversion Shares (collectively, the "**Lock-Up Securities**"); (2) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the Lock-Up Securities, whether any such transaction described in clause (1) above or this clause (2) is to be settled by delivery of Lock-Up Securities, in cash or otherwise; (3) make any demand for or exercise any right with respect to the registration of any Lock-Up Securities; or (4) publicly disclose the intention to make any offer, sale, pledge or disposition, or to enter into any transaction, swap, hedge or other arrangement relating to any Lock-Up Securities. Notwithstanding the foregoing, and subject to the conditions below, you may transfer Lock-Up Securities without the prior written consent of the Representative in connection with (a) transfers of Lock-Up Securities as a *bona fide* gift, by will or intestacy or to a family member or trust for the benefit of a family member (for purposes of this letter agreement, "family member" means any relationship by blood, marriage or adoption, not more remote than first cousin) or (b) transfers of Lock-Up Securities to a charity or educational institution; provided that (i) any such transfer shall not involve a disposition for value, (ii) each transferee shall sign and deliver to the us and to the Representative a letter agreement substantially in the form of this letter agreement, and (iii) no filing under Section 16(a) of the Securities Exchange Act of 1934, as amended, shall be required or shall be voluntarily made. You also agree and consent to the entry of stop transfer instructions with the Company's transfer agent and registrar against the transfer of the Lock-Up Securities except in compliance herewith.

You agree that, prior to engaging in any transaction or taking any other action that is subject to the terms of this letter agreement during the period from the date hereof to and including the 30th day following the expiration of the Lock-Up Period, you will give notice thereof to the Company and will not consummate any such transaction or take any such action unless it has received written confirmation from the Company that the Lock-Up Period has expired.

You understand that the Company and the Representative are relying upon this letter agreement in proceeding toward consummation of the Public Offering. You further understand that this letter agreement is irrevocable and shall be binding upon your heirs, legal representatives, successors, and assigns.

Whether or not the Public Offering actually occurs depends on a number of factors, including market conditions. Any Public Offering will only be made pursuant to an Underwriting Agreement, the terms of which remain subject to negotiation between the Company and the Representative.

Very truly yours,

**NFÜSZ, INC.**

By: _____
Rory Cutaia, Chief Executive Officer

ACKNOWLEDGED AND AGREED:

_____

**PARTNER APPLICATION DISTRIBUTION AGREEMENT**
Template last updated April 2, 2018

**Signature Page**

| | |
|---|---|
| **Partner Full Legal Name** | Verb Technology Company, Inc |
| **Partner Address** | 344 South Hauser Blvd. Suite 414<br>Los Angeles<br>CA<br>90036<br>US |
| **Address for Legal Notices to Partner**<br>(only if different from above) | |

This Partner Application Distribution Agreement ("**Agreement**") is between **salesforce.com, inc.**, a Delaware corporation having its principal place of business at The Landmark @ One Market, Suite 300, San Francisco, California 94105 ("**SFDC**") and the Partner listed above ("**Partner**"). SFDC and Partner are collectively the "**Parties**" and each a "**Party**" to this Agreement. Partner may also be referred to herein as "**Reseller**." This Agreement is effective as of the later of the dates beneath the Parties' signatures below (the "**Effective Date**"); provided, however that if such dates are separated by more than thirty (30) days this Agreement will be deemed null and void.

The Parties, by their respective authorized signatories, have duly executed this Agreement as of the Effective Date.

**SFDC**

DocuSigned by:
By: Catherine Kelly
4FFBDDA6F9D64C9...
Name: Catherine Kelly
Title: Senior Manager, Sales Operations
Date: January 30, 2019 | 17:40:52 PST

**PARTNER**

DocuSigned by:
By: Rory Cutaia
FBCC149FF8CC446...
Name: Rory Cutaia
Title: CEO
Date: February 4, 2019

**1. Definitions**

"**Affiliate**" means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

"**AppExchange**" means the online directory of applications that interoperate with the SFDC Services, located at http://www.salesforce.com/appexchange or at any successor websites

"**Beta Services**" means SFDC services or functionality that may be made available to Partner to try at Partner's option at no additional charge which is clearly designated as beta, pilot, limited release, developer preview, non-production, evaluation, or by a similar description.

"**Change in Control**" means a merger, acquisition or other corporate transaction in which the owners of all of the subject entity's voting interests immediately prior to the transaction own less than 50% of the voting interests of the successor entity resulting from the transaction.

"**Combined Solution**" means the combination of a Partner Application with the Distribution Services that Partner is authorized to use or resell in combination with such Partner Application.

"**Content**" means information obtained by SFDC from publicly available sources or its third party content providers and made available to Customer through the SFDC Services, Beta Services or pursuant to an Order Form, as more fully described in the Documentation.

"**Customer**" means an entity to whom a Partner Application is distributed for its use.

"**Customer Data**" means electronic data and information submitted by or for a Customer to the SFDC Services which are accessible to the Customer while resident on SFDC's systems, including through the Partner Application, excluding Content and Non-SFDC Applications.

"**Distribution Services**" means the services provided by SFDC for use or resale by Partner in combination with a Partner Application, as detailed in each applicable Partner Category Addendum attached hereto.

"**Documentation**" means the applicable SFDC Services' Trust and Compliance documentation, and its usage guides and policies, as updated from time to time, accessible via help.salesforce.com or login to the applicable SFDC Services.

**"Non-SFDC Application"** means a Web-based, mobile, offline or other software application functionality that is provided by Customer, Partner or a third party and interoperates with an SFDC Service, including, for example, an application that is developed by or for a Customer, is listed on the AppExchange, or is identified as Salesforce Labs or by a similar designation.

"**Org**" or "**Organization**" means a unique instance of the SFDC Services, i.e., a separate set of Customer Data and Customer-specific SFDC Services customizations held by SFDC in a logically separated database (i.e., a database segregated through password-controlled access).

"**Partner Application**" means each Partner application approved by SFDC and described in a Partner Application Description.

"**Partner Application Description**" means each description of a Partner Application attached as an exhibit to a Partner Category Addendum.

"**Partner Category**" means an SFDC-designated category of SFDC's AppExchange Partner Program, as more fully described in each Partner Category Addendum attached to this Agreement.

"**Partner Category Addendum**" means each addendum that is attached to this Agreement, depending on which Partner Category(ies) the Partner is participating in. Each Partner Category addendum attached hereto is incorporated herein by

reference.

"**Partner Community**" means the SFDC partner community at https://partners.salesforce.com/ (as such URL may be updated from time to time).

"**Service Orders**" means orders for Distribution Services that are entered into between Partner and SFDC or any of SFDC's Affiliates from time to time.

"**SFDC MSA**" means a master subscription agreement to SFDC Services between SFDC and a Customer.

"**SFDC Services**" means the products or services made available on-line by SFDC, including associated offline or mobile components, as described in the Documentation. SFDC Services exclude Content and Non-SFDC Applications, including but not limited to applications made available on the AppExchange and Partner Applications.

"**Shared Org**" means an active SFDC Services Org in which both of the following are provisioned: (i) a Partner Application; and (ii) SFDC Services subscriptions purchased by Customer from SFDC or an SFDC partner other than Partner.

"**Term**" has the meaning specified in Section 7.1.

"**Transition Period**" has the meaning specified in Section 7.3.2.

"**Trial Subscription**" means a free subscription to the Distribution Services for use with a free trial subscription to a Partner Application.

## 2. Partner Relationship

**2.1. Partner Applications**. This Agreement sets forth the terms and conditions of Partner's distribution of Partner Applications as part of SFDC's AppExchange Partner Program.

**2.2. Partner Category Addenda**. The AppExchange Partner Program consists of one or more Program Categories. Each Partner Category Addendum attached hereto contains terms and conditions regarding Partner's distribution of Partner Applications pursuant to such Partner Category, including fees and other amounts due to SFDC in connection with such distribution. Each Partner Category Addendum is incorporated herein by reference.

**2.3. Distribution Services**. Partner will not provide any Customer with a product quotation listing any SFDC service or product as its own line item. Partner will be solely responsible for setting the price that Partner charges Customers for any Partner Application, or if Partner is reselling Distribution Services with the Partner Application, for any Combined Solution.

**2.4. Relationship Managers**. Each Party will designate a representative (each a "**Relationship Manager**") who will oversee that Party's activities under this Agreement. Each Party's Relationship Manager will serve as its principal point of contact for the other Party for the resolution of any issues that may arise under this Agreement. Each Party may change its Relationship Manager by notifying the other Party.

**2.5. Sales Forecasts**. Upon SFDC's request, Partner will provide SFDC with a one year sales forecast for each Partner Application. SFDC may request an update of this forecast on a quarterly basis. The foregoing information will be considered Partner's Confidential Information (as defined herein).

## 3. Partner Applications.

**3.1. Scope of Partner Application**.

**3.1.1.** Each Partner Application distributed by Partner shall at all times materially conform to the applicable Partner Application Description. Without limiting the foregoing, each Partner Application may only utilize the number of SFDC Services components (e.g., apps, tabs and objects) required to deliver the Partner Application in the form and with the functionality as approved by SFDC and reflected in the Partner Application Description.

**3.1.2.** SFDC reserves the right to review each Partner Application to verify that the Partner Application continues to materially conform to the applicable Partner Application Description.

**3.1.3.** A Partner Application may not recreate substantially similar functionality to the following standard SFDC objects: Campaigns, Cases, Entitlements, Leads, Opportunities, Quotes, Sales Contracts, Service Contracts, Solutions and/or Work Orders.

**3.2. Material Modifications.**

**3.2.1.** SFDC must review, approve and reflect in this Agreement via a mutually executed amendment of the Partner Application Description, any Material Modifications. "**Material Modifications**" are modifications and/or updates to a Partner Application that cause the Partner Application not to materially conform with the Partner Application Description or that are otherwise material. For the avoidance of doubt, modifications and/or updates to the Partner Application that require or enable the use of any SFDC Services functionality not included in the Partner Application Description are material for the purposes of this Agreement.

**3.2.2.** If Partner breaches its obligations under this Section 3 (Partner Applications), SFDC may, upon written notice to Partner, (a) suspend Partner's right to distribute Partner Applications with and/or use Distribution Services hereunder, or (b) terminate the Agreement in accordance with Section 7.2 (Termination for Cause) below.

**3.2.3.** For the avoidance of doubt, all modifications to a Partner Application and/or updated versions of a Partner Application may be subject to a Security Review, even if they do not include a Material Modification.

**3.3. Partner Application Security Review.** SFDC may conduct periodic security evaluations of the Partner Application ("**Security Reviews**"), which may include a qualitative assessment involving review of a questionnaire completed by Partner, an interview with appropriate Partner personnel, and/or security testing. SFDC conducts such Security Reviews for its own benefit and Partner may not rely on, publicly disclose or promote a Partner Application's successful passage of such Security Review. Partner shall not distribute a Partner Application unless such Partner Application has successfully passed the Partner Application Security Review. There may be fees associated with such review. If the Partner Application, in whole or in part, runs outside SFDC's systems, security testing may include remote application-level security testing of the Partner Application, and network-level security testing including a vulnerability threat assessment. SFDC may conduct such testing itself or through a third party. SFDC will provide reasonable notice to Partner before starting such testing. SFDC will cooperate reasonably with Partner to mitigate the effects of such testing on Partner's business and operations. Partner agrees to cooperate reasonably with such testing. Despite the foregoing, such testing may in rare cases cause downtime or other adverse effects on the Partner Application or Partner's systems. Partner agrees that SFDC and its agents or contractors conducting the testing will bear no responsibility or liability arising from such testing. Any Partner Confidential Information to which SFDC obtains access in the course of a Security Review will be subject to Section 8 (Confidentiality).

**3.4. Privacy and Security of Customer Data Accessed by Partner Application.** Partner will maintain appropriate administrative, physical, and technical safeguards for the protection of the security, confidentiality and integrity of Customer Data accessed or processed by the Partner Application. To the extent the Partner Application transmits or processes Customer Data outside SFDC's systems, Partner represents and warrants that it will notify all Customers prior to their use of the Partner Application that their Customer Data will be transmitted or processed outside SFDC's system and to that extent SFDC is not responsible for the privacy, security or integrity of that Customer Data. Partner shall not (a) modify Customer Data, except to provide the Partner Application or when expressly permitted in writing by Customer, (b) disclose Customer Data except as compelled by law or as expressly permitted in writing by Customer, or (c) access or use Customer Data except to provide the Partner Application and prevent or address service or technical problems, or at Customer's request in connection with customer support matters. In addition, Partner shall comply with all applicable laws in providing the Partner Application to Customers. Partner agrees to maintain the confidentiality of Customer Data indefinitely following the expiration or termination of this Agreement.

4. **Customer Relationship**.

**4.1. Customer Agreements.** Customers will contract directly with Partner for the use of Partner Applications and any Distribution Services resold by Partner to such Customer.

**4.2. Customer Billing and Collection**. Partner will be solely responsible for billing and collecting fees for each Partner Application from Customers. Payments due from Partner to SFDC will not depend on Partner's receipt of payments from Customers.

**4.3. Partner Solely Responsible to Customers.** In the event that Partner ceases business and/or provision of a Partner Application, SFDC is under no obligation to provide the Partner Application, to refund to Customer any fees paid by Customer to Partner, or to assume the relationship with Customer.

**4.4. Customer Support.** Partner will itself provide all technical support for Partner Applications and any Distribution Services used or resold by Reseller with such Partner Applications in accordance with the following: (i) Partner will provide telephone, web-based and/or email support to Customers during normal business hours; (ii) Partner will respond to all Customers' support queries within 1 business day; and (iii) Partner will clearly and conspicuously, within the online help information provided for the Partner Application, direct Users to contact only Partner for technical support. Partner will not direct Customers to seek support from SFDC and SFDC will not, except in its sole discretion on a case by case basis, provide any technical support to Customers for Partner Applications or Distribution Services. SFDC has no obligation to provide such support. If, after exercising Partner's best effort to resolve a technical support issue relating to the Distribution Services or Customer's use of a Partner Application with the SFDC Services, Partner cannot adequately resolve such issue, Partner may seek assistance from SFDC's support organization by logging a case with SFDC via the Partner Community.

**4.5. Trial Subscriptions.** Trial Subscriptions may not exceed 30 days. Partner will prominently inform all prospective Customers signing up for a Trial Subscription to a Partner Application that their registration information will be disclosed to SFDC and will be used by SFDC pursuant to its privacy policy available at http://www.salesforce.com. All data provided by a prospective Customer through a Trial Subscription to a Partner Application will be treated by the Parties as Customer Data belonging to that prospective Customer, and Partner will provide the Customer with the ability to access and download all of its Customer Data throughout the term of such Trial Subscription.

**4.6. Suspension and Termination of Shared Org.** Partner acknowledges and understands that a Customer's access to a Shared Org may be suspended or terminated due to breach or expiration of the SFDC MSA. Partner will remain liable to SFDC for the fees for the Distribution Services, including those remaining under the applicable Service Order, notwithstanding any such suspension or termination. In no case will any such termination or suspension give rise to any liability of SFDC to Partner or to the Customer, including for a refund or damages.

5. **Fees.**

**5.1. Taxes.** Unless otherwise stated, SFDC's fees do not include any direct or indirect local, state, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including value-added, use or withholding taxes (collectively, "**Taxes**"). Partner is responsible for paying all Taxes associated with its purchases of Distribution Services, excluding taxes based on SFDC's net income or property. If SFDC has the legal obligation to pay or collect Taxes for which Partner is responsible under this section, the appropriate amount shall be invoiced to and paid by Partner, unless Partner provides SFDC with a valid tax exemption certificate authorized by the appropriate taxing authority.

**5.2. Audits.** SFDC will have the right to audit, no more than once per calendar year, Partner's records relating to Partner's payment obligations under this Agreement, including without limitation fee calculations, records relating to the provisioning of the Partner Applications and any fees required to be paid to Partner in order to install, access and/or use any version of such Partner Application or its features and capabilities, and the documentation underlying any information provided to SFDC with respect to Service Orders, upon reasonable notice and under reasonable time, place and manner conditions. If such audit shows underpayment by Partner of 5.00% or more ("**Irregularity**"), Partner shall be responsible for the full cost of the audit and SFDC shall subsequently be entitled to perform quarterly audits, at its sole discretion, for the remainder of the Agreement. If no such Irregularity is discovered, then SFDC shall bear the cost of the audit.

**5.3. Overdue Payments.**

**5.3.1. Suspension of Service**. If any charge owing by Partner is 30 days or more overdue, SFDC may, without limiting its other rights and remedies, suspend all or some services until such amounts are paid in full, provided that SFDC has given Partner at least 10 days' prior written notice that its account is overdue in accordance with the "Notices" section of this Agreement. In no case will any such suspension give rise to any liability of SFDC to Partner or to the Customer, including for a refund or damages.

**5.3.2. AppExchange**. Without limiting any other terms and conditions relating to Partner's listing of a Partner Application on the AppExchange, Partner acknowledges that SFDC may delist a Partner Application from the AppExchange if Salesforce has not received payments due to SFDC from Partner under this Agreement within sixty (60) days following the payment due date provided that SFDC has given Partner at least 10 days' prior written notice that its account is overdue in accordance with the "Notices" section of this Agreement.

**5.3.3. Overdue Charges**. If any invoiced amount is not received by SFDC by the due date, then without limiting SFDC's rights or remedies, those charges may accrue late interest at the rate of 1.50% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower.

**5.3.4. Payment Disputes**. SFDC will not exercise its rights under the "Overdue Charges," "AppExchange," or "Suspension of Service" sections above if Partner is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute. Any such dispute must be initiated by Partner, in writing, within thirty (30) days of the date on which the applicable payment was due.

**6. Marketing and Publicity**

**6.1. Press Release, etc.** Neither Party will issue a press release announcing the Parties' relationship under this Agreement unless agreed to by both Parties in writing. Partner agrees to comply with SFDC's Partner Press Release Guidelines on all press releases, unless otherwise agreed to in writing. The Parties may collaborate on such items as marketing collateral, public relations, newsflashes, webinars, events, and other promotional activities.

**6.2. Marketing Statements.** Partner will not make any false, misleading or disparaging statements regarding SFDC or its Affiliates or their technology or services, or their capabilities, features, functions or performance, including without limitation in or in the course of any sales, marketing, publicity, and other activities under this Agreement.

**6.3. SFDC Marketing Collateral.** Partner may, at its own expense, copy and distribute SFDC's standard product literature to prospective Customers. Partner may not alter any pre-existing SFDC branding or marketing collateral.

**6.4. Partner Marketing Collateral**.

**6.4.1.** Partner shall at all times comply with SFDC's current branding guidelines, including the Trademark Usage Guidelines (currently available at https://www.salesforce.com/company/legal/) and Partner Branding Guidelines (currently available at https://partners.salesforce.com/s/education/general/Branding_Guidelines ) and Partner Public Relations Guidelines (available through https://partners.salesforce.com/s/education/general/PR_Guidelines ) (collectively, "**SFDC Branding Guidelines**").

**6.4.2.** During the Term, the Partner Application may only be described by Partner in a manner that (i) is consistent with the Partner Application Description and SFDC Branding Guidelines or (ii) has been pre-approved by SFDC in writing.

**6.4.3.** SFDC may not alter any pre-existing Partner branding or marketing collateral within the Partner Application.

**7. Term and Termination**

**7.1. Term.** This Agreement is effective as of the Effective Date and will remain in effect for so long as a Partner Category Addendum is in effect.

**7.2. Termination for Cause.** A Party may terminate this Agreement or any Partner Category Addendum for cause (i) upon 30 days written notice to the other Party of a material breach if such breach remains uncured at the expiration of such period, (ii) if the other Party becomes the subject of a petition in bankruptcy or any other proceeding

relating to insolvency, receivership, liquidation or assignment for the benefit of creditors, (iii) if the other Party is subject to a Change in Control in favor of a direct competitor of the terminating Party, (iv) in the event an indemnifiable Claim (as set forth in Section 11) is brought against it by a third-party alleging intellectual property infringement by the other Party, and the indemnifying Party fails to remedy such infringement (as set forth in Section 11) within ninety (90) days following notification of such Claim. For the avoidance of doubt, termination in sections (ii)-(iv) are each upon written notice and not subject to a cure period.

**7.3. Effect of Termination Notice/Non-Renewal.** If a Party delivers a written termination notice pursuant to Section 7.2, or if a Partner Category Addendum is not renewed after the expiration of the Initial Term or a Renewal Term, the following shall apply:

**7.3.1. No New Distribution.** Except as set forth in Section 7.3.2, SFDC will have no obligation to continue providing the Distribution Services to Partner and Partner will (i) immediately cease distribution of each Partner Application for use with any SFDC Services, (ii) not enter into any new or renewal orders with Customers for any Partner Application and (iii) not enter into any new or renewal Service Orders with SFDC for the Distribution Services. The Parties will meet to discuss in good faith whether and how to transition and/or accommodate existing Customers.

**7.3.2. Transition Periods**. If either Party elects not to renew a Partner Category Addendum, unless otherwise set forth in the applicable Partner Category Addendum, the Parties will continue to perform their respective obligations under this Agreement with respect to any Service Orders in effect as of such termination or expiration for the remainder of the then-current term of each such Service Order (the "**Transition Period**"). SFDC reserves the right to terminate the Customer relationship with any Customer that is in breach of its SFDC MSA during the Transition Period. In no case will any such termination give rise to any liability of Salesforce to Partner or to the Customer for a refund or damages.

**7.4. Survival.** Notwithstanding any other provision of this Agreement: (a) the termination or expiration of this Agreement will not relieve either Party of its outstanding payment obligations at the time of such termination or expiration; and (b) those provisions that by their nature are intended to survive termination of the Agreement, including the following provisions of this Agreement and those specified as surviving provisions in this Agreement, and all other provisions necessary to their interpretation or enforcement (including those set forth in any applicable Partner Category Addendum), will survive indefinitely after the expiration or termination of this Agreement and will remain in full force and effect and be binding upon the Parties as applicable: Sections 5 (Fees), 7.4 (Survival), 8 (Confidentiality), 9.2 (Ownership of Intellectual Property), 9.4 (Ownership/Good Faith Covenants), 10.3 (Warranty Disclaimer), 11 (Mutual Indemnification) 12 (Exclusions and Limitations of Liability) and 14 (General). For the avoidance of doubt, termination under Section 7.2 (Termination for Cause) shall not relieve the indemnifying party of its indemnification obligations hereunder. In addition, this Agreement will continue to apply in full force and effect with respect to Service Orders in effect during the Transition Period.

## 8. Confidentiality

**8.1. Definition of Confidential Information.** In this Agreement, "**Confidential Information**" means all information disclosed by a Party (the "**Disclosing Party**"), to the other Party (the "**Receiving Party**"), orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, including without limitation and without the need to designate as confidential: (a) the terms and conditions of this Agreement (which are both SFDC's and Partner's Confidential Information); (b) the Distribution Services and the SFDC Services, including their underlying technology and architecture (which are SFDC's Confidential Information); (c) the Disclosing Party's business and marketing plans, technologies and technical information, product designs, financial information, and business processes; and (d) the Partner Application (which is Partner's Confidential Information). For avoidance of doubt, Customer Data is the

confidential information of the applicable Customer. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

**8.2. Protection of Confidential Information**. The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to (i) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein. Neither Party will disclose the terms of this Agreement or any Service Order to any third party other than its Affiliates, legal counsel and accountants without the other Party's prior written consent, provided that a Party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate's, legal counsel's or accountant's compliance with this "Confidentiality" section.

**8.3. Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.

**8.4. Return of Confidential Information.** Upon Disclosing Party's written request upon expiration or termination of this Agreement (or at any earlier time upon written request by the Disclosing Party), the Receiving Party will: (a) promptly deliver to the Disclosing Party all originals and copies of all the Disclosing Party's Confidential Information and all documents, records, data and materials containing such Confidential Information in the Receiving Party's possession, power or control and the Receiving Party will delete all of the Disclosing Party's Confidential Information from any and all of the Receiving Party's computer systems, retrieval systems and databases except to the extent such systems retain such information in the ordinary course of business for back-up purposes; and (b) request that all persons to whom it has provided any of the Disclosing Party's Confidential Information comply with this Section 8.4. For the avoidance of doubt, Customer Data will be deleted in accordance with the Documentation.

## 9. Intellectual Property

**9.1. License to Partner Applications.** Subject to the terms and conditions of this Agreement, Partner hereby grants to SFDC a worldwide, limited term, nonexclusive license during the Term to host, copy, transmit and display the Partner Applications as necessary for SFDC to fulfill its obligations under this Agreement, and to use the Partner Applications as reasonably necessary to provide and facilitate proper operation with the SFDC Services and systems.

**9.2. Ownership of Intellectual Property**.

**9.2.1. SFDC Property.** Partner acknowledges that, as between the Parties, the SFDC Services, the Distribution Services and the AppExchange, and all intellectual property rights therein, are and will remain the sole property of SFDC, and no rights are granted to Partner under this Agreement with respect to the SFDC Services, the Distribution Services, or the AppExchange, or the intellectual property rights therein, other than the limited licenses specified in this Agreement. Partner will not use the SFDC Services, the Distribution Services, or the AppExchange, or the intellectual property rights therein, except as expressly permitted by this Agreement.

**9.2.2. Partner Property.** SFDC acknowledges that, as between the Parties, the Partner Application and all intellectual property rights therein are and will remain the sole property of Partner, and no rights are granted to SFDC under this Agreement with respect to the Partner Application or the intellectual property rights therein, other than the limited licenses specified in this Agreement. SFDC will not use the Partner Application or the intellectual property rights therein, except as permitted by this Agreement.

**9.3. Trademark Cross-License.**

**9.3.1. License.** Each Party (the "**Granting Party**") hereby grants to the other Party (the "**Licensed Party**") a limited, nonexclusive, nontransferable, non-sublicenseable, royalty-free license during the Term to use the Granting Party's Licensed Marks for the sole purpose of identifying and promoting the Granting Party's business, products and services and the Partner Application, and strictly in accordance with this Agreement. If the Granting Party is SFDC, its Licensed Marks are such marks identified publicly by SFDC as available for use by Partners in the Partner Category(ies) in which Partner is participating, and such associated designs and logos as specified or approved in writing by SFDC in its discretion from time to time (see, e.g., SFDC Branding Guidelines) ("**SFDC Marks**"). Partner may use the SFDC Marks solely: (i) for so long as Partner remains a Partner in the applicable Partner Category(ies); and (ii) in any jurisdiction in which Partner is authorized to be a Partner and SFDC has rights. This License does not grant rights to use any trademark of SFDC other than those identified as SFDC Marks herein. If the Granting Party is Partner, except to the extent any mark features any of the SFDC Marks, its Licensed Marks are its name, the name of the Partner Application, and such associated designs and logos as specified or approved in writing by Partner in its discretion from time to time ("**Partner Marks**"). Each Party represents and warrants that it owns or otherwise has sufficient rights to its Licensed Marks, to the extent the Parties have obtained rights in a given jurisdiction, to grant the rights granted in this Agreement and its Marks do not infringe any intellectual property rights of any third party. All of the benefit and goodwill associated with the Licensed Party's use of the Granting Party's Marks will inure entirely to the Granting Party.

**9.3.2. Usage Guidelines and Required Approvals.** The Licensed Party's use of the Granting Party's Marks will strictly comply with the Granting Party's written trademark usage policies communicated to the Licensed Party from time to time, including the use of proper notices and legends (see, e.g., SFDC Branding Guidelines). The Licensed Party will obtain the Granting Party's prior written approval of all uses of the Granting Party's Marks, which approval may be granted or withheld in the Granting Party's discretion. The Granting Party may withdraw any approval of any use of its Marks at any time in its discretion, although no such withdrawal will require the recall of any previously published or distributed written materials.

**9.3.3. Standards.** During the Term, the Licensed Party will reasonably cooperate with the Granting Party in facilitating the Granting Party's monitoring and control of the nature and quality of the materials, products and services bearing the Granting Party's Marks, and will supply the Granting Party with specimens of the Licensed Party's use of the Granting Party's Marks upon request. If the Granting Party notifies the Licensed Party that the Licensed Party's use of the Granting Party's Marks is not in compliance with the Granting Party's trademark policies or is otherwise in breach of this Agreement, then the Licensed Party will promptly take such reasonable corrective action as directed by the Granting Party.

**9.4. Ownership/Good Faith Covenants.** Partner acknowledges and agrees that the SFDC Marks are and will remain the sole and exclusive property of SFDC. Partner will not acquire any right, title, or interest in, to or associated with the SFDC Marks other than the limited license to use Licensed Marks identified above pursuant to this Agreement. Both during and after the Term, Partner will not itself, and will not assist, permit, or encourage any other person to, do anything or omit to do anything that might prejudice, impair, jeopardize, violate, dilute, depreciate, or infringe any of the SFDC Marks or SFDC's interest in the SFDC Marks without SFDC's prior express written approval. SFDC acknowledges and agrees that the Partner Marks are and will remain the sole and exclusive property of Partner. SFDC will not acquire any right, title, or interest in, to or associated with the Partner Marks other than the limited license to use Licensed Marks identified above pursuant to this Agreement. Both during and after the Term, SFDC will not itself, and will not assist, permit, or encourage any other person to, do anything or omit to do anything that might prejudice, impair, jeopardize, violate, dilute, depreciate, or infringe any of the Partner Marks or Partner's interest in the Partner Marks without Partner's prior express written approval.

**10. Representations and Warranties**

**10.1. SFDC.** SFDC represents and warrants that: (a) it will not materially decrease the overall features and functionalities of the Distribution Services during the Initial Term or during any individual subsequent Renewal Term; and (b) it has the legal power to enter into and perform its obligations under this Agreement.

**10.2. Partner.** Partner represents and warrants that: (a) any Partner Application(s) will perform materially in accordance with the relevant documentation as amended from time to time by Partner and as provided to Customers; (b) it will not materially decrease the overall features and functionalities of any Partner Application during the Initial Term or during any individual subsequent Renewal Term; (c) it has the legal power to enter into and perform its obligations under this Agreement; and (d) it will not make any representations or warranties on SFDC's behalf.

**10.3. WARRANTY DISCLAIMER.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED REPRESENTATIONS AND WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. CONTENT IS PROVIDED "AS IS," AND AS AVAILABLE EXCLUSIVE OF ANY WARRANTY WHATSOEVER. SFDC MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED REPRESENTATIONS AND WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WITH REPSECT TO NON-SFDC APPLICATIONS (INCLUDING, WITHOUT LIMITATION, ALL PARTNER APPLICATIONS). SFDC DISCLAIMS ALL LIABILITY FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD-PARTY HOSTING PROVIDERS.

## 11. Mutual Indemnification

**11.1. Indemnification by Partner.** Partner will defend SFDC against any claim, demand, suit or proceeding made or brought against SFDC by a third party (i) alleging that that the Partner Application or Combined Solution infringes or misappropriates such third party's intellectual property rights; (ii) based upon a representation made by Partner to such third party; (iii) based upon a breach by Partner of Section 3.4 (Privacy and Security of Customer Data Accessed by Partner Application) or of Section 13 (Compliance); or (iv) arising from the Partner Application or Combined Solution (each, a "**Claim Against SFDC**"), and will indemnify SFDC from any damages, attorney fees and costs finally awarded against SFDC as a result of, or for amounts paid by SFDC under a settlement approved by Partner in writing of, a Claim Against SFDC, provided that SFDC (a) promptly gives Partner written notice of the Claim Against SFDC, (b) gives Partner sole control of the defense and settlement of the Claim Against SFDC (except that Partner may not settle any Claim Against SFDC unless it unconditionally releases SFDC of all liability), and (c) gives Partner all reasonable assistance, at Partner's expense. In the event of a Claim Against SFDC by a third party alleging that the Partner Application infringes the intellectual property rights of a third party, or if Partner reasonably believes the Partner Application may infringe or misappropriate, Partner may in its discretion and without any reduction in any payment due to SFDC (i) modify (without materially reducing the overall functionality of) the Partner Application so that they are no longer claimed to infringe or misappropriate, (ii) obtain a license for Customer's and SFDC's continued use of the Partner Application in accordance with this Agreement and such other agreements between Partner and Customer, as applicable or (iii) terminate any then-active Distribution Services subscriptions for use with such Partner Application upon 30 days' written notice to SFDC, provided that if Partner terminates such subscriptions, Partner will be prohibited from distributing such Partner Application for use with SFDC Services and, to the extent that Partner has listed such Partner Application on the AppExchange, Partner must remove such listing from the AppExchange.

**11.2. Indemnification by SFDC**. SFDC will defend Partner against any claim, demand, suit or proceeding made or brought against Partner by a third party alleging that the Distribution Services infringe or misappropriate the intellectual property rights of such third party (a "**Claim Against Partner**"), and will indemnify Partner from any damages, attorney fees and costs finally awarded against Partner as a result of, or for amounts paid by Partner under a settlement approved by SFDC in writing of, a Claim Against Partner, provided that Partner (a) promptly gives SFDC written notice of the Claim Against Partner, (b) gives SFDC sole control of the defense and settlement of the Claim Against Partner (except that SFDC may not settle any Claim Against Partner unless it unconditionally releases Partner of all liability), and (c) gives SFDC all reasonable assistance, at SFDC's expense. In the event of a Claim Against Partner by a third party alleging that the use of the Distribution Services infringes the intellectual property rights of a third party, or if SFDC reasonably believes the Distribution Services may infringe or misappropriate, SFDC may in its discretion and at no cost to Partner (i) modify the Distribution Services so that

they are no longer claimed to infringe or misappropriate (without breaching the warranty in 10.2(a) above), (ii) obtain a license for Partner's continued resale of the Distribution Services in accordance with this Agreement or (iii) terminate the Distribution Services upon 30 days' written notice and refund Partner any prepaid fees covering the period following such termination.

**12. Exclusions and Limitations of Liability**

**12.1. LIMITATION OF LIABILITY.** SUBJECT TO SECTION 12.3, IN NO EVENT WILL THE AGGREGATE LIABILITY OF EACH PARTY TOGETHER WITH ITS AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT, EXCEED THE GREATER OF $100,000 OR THE TOTAL AMOUNTS PAID BY PARTNER HEREUNDER IN THE TWELVE MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, BUT WILL NOT LIMIT PARTNER'S PAYMENT OBLIGATIONS HEREUNDER.

**12.2. EXCLUSION OF CONSEQUENTIAL AND RELATED DAMAGES.** IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY LOST PROFITS, REVENUES, GOODWILL, OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER, BUSINESS INTERRUPTION OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF A PARTY'S OR ITS AFFILIATES' REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

**12.3. EXCEPTIONS:** SECTION 12.1 DOES NOT APPLY TO: (i) THE OBLIGATIONS SET FORTH IN SECTION 11 (MUTUAL INDEMNIFICATION) OF THIS AGREEMENT; OR (ii) PARTNER'S LIABILITY ARISING FROM ITS BREACH OF SECTION 3.4 (PRIVACY AND SECURITY OF CUSTOMER DATA ACCESSED BY PARTNER APPLICATION).

**13. Compliance**

**13.1. Compliance with Ethical Brand Representation Standards.** Partner shall comply with all applicable laws and regulations in its marketing activities hereunder and shall not engage in any deceptive, misleading, illegal or unethical marketing activities, or activities that otherwise may be detrimental to SFDC and shall perform its obligations hereunder in a manner that in SFDC's judgment reflects well upon SFDC and its brands.

**13.2. Compliance with Global Trade Laws.** The Parties, as well as the Distribution Services, SFDC Services, Content, and other technology SFDC makes available may be subject to export and economic sanctions laws and regulations of the United States and other jurisdictions. Each Party represents that as of the Effective Date neither the Party, nor its Affiliates, is: (a) currently identified on any sanctions or export control list maintained by the U.S. government, including, but not limited to, the Specially Designated Nationals ("**SDN**") List maintained by the Department of the Treasury, Office of Foreign Assets Control ("**OFAC**") or the Denied Persons or Entity Lists maintained by the Department of Commerce, Bureau of Industry and Security ("**BIS**") (collectively "**Sanctioned Persons**"); nor (b) located, organized or ordinarily resident in a U.S.-embargoed country or territory (currently Cuba, Iran, North Korea, Sudan, Syria and the Crimea Region of Ukraine) (each, an "**Embargoed Territory**"). Unless otherwise authorized by a specific license, general license, exemption, or other authorization from the U.S. government, Partner shall not (a) sell a Partner Application or Combined Solution into or from, or permit Users to access or use any Partner Application or Combined Solution from, an Embargoed Territory; (b) engage in any transaction with, or allow access or use of any Partner Application or Combined Solution by, a Sanctioned Person, in connection with Partner's activities contemplated by this Agreement; or (c) engage in any other activity or transaction pursuant to this Agreement that would be in violation of any U.S. export or economic sanctions law or regulation.

**13.3. Compliance with Anti-corruption Laws.** Partner shall comply with the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act, and the anti-corruption laws of other countries, to the extent applicable. Partner hereby represents and warrants that, in its performance under this Agreement, Partner has not, and will not at any time,

directly or indirectly (through a sub-Partner or other third party), pay, offer, give or promise to pay or give, or authorize the payment of, any monies or any other thing of value to secure an improper advantage or to improperly influence or reward the performance of any party.

**13.4. Consequences of Violation.** Partner shall promptly inform SFDC in writing upon becoming aware of any potential violations of laws in connection with this Agreement. Partner hereby acknowledges and agrees that any violation by Partner of the Compliance with Trade Law and Ethical Brand Representation Standards and Compliance with Anti-Corruption Laws sections of this Agreement will constitute a material breach of this Agreement. In the event SFDC reasonably believes such a violation has occurred, SFDC will have the right to terminate this Agreement, without any liability whatsoever to Partner, immediately upon providing written notice of termination to Partner. Termination of this Agreement by SFDC under this section shall be in addition to, and not in lieu of, SFDC's other legal rights and remedies.

**13.5. Training.** To comply with applicable law and any obligations set forth in this Section 13 (Compliance), Partner agrees to implement and maintain an internal training program for its employees (and to the extent applicable, Partner's contractors) to help ensure Partner's compliance with applicable laws, including international anti-corruption laws such as the FCPA, the UK Bribery Act and local anti-corruption law as well as US export control law.

**13.6. Certification.** Partner agrees to periodically, at SFDC's request, complete SFDC's Due Diligence Questionnaire and Compliance Certification. Partner agrees that, to comply with applicable laws, Partner and its employees and contractors participating on Partner's behalf in the activities contemplated under this Agreement may be subject to periodic certification as determined by SFDC. Partner may be subject to additional due diligence, questions and training, as determined by SFDC. Without limiting the foregoing, to the extent that Partner or a Partner contractor has completed SFDC's then-standard compliance certification ("**Compliance Certification**"), Partner and/or the contractor shall remain in full compliance with the terms of its Compliance Certification. If SFDC reasonably believes that Partner has violated or is violating the terms of its Compliance Certification, Partner shall cooperate in good faith with SFDC (i) in determining the existence, nature and extent of any such violation, and (ii) to undertake any actions required to correct the violation. In the event SFDC reasonably and in good faith disputes Partner's certification or reasonably believes Partner has violated its obligations set forth herein, SFDC shall have the right to review Partner's records to ensure compliance.

**14. General**

**14.1. Personnel; Use of Third Parties.** Partner will be responsible for the performance of its personnel (including its employees and contractors) and any third parties it uses in the performance of this Agreement, and the compliance of such personnel and third parties with Partner's obligations under this Agreement.

**14.2. Relationship of the Parties.** The Parties are non-exclusive, independent contractors, and nothing in this Agreement or done pursuant to this Agreement will create or be construed to create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the Parties. The Parties acknowledge and agree that: (a) SFDC may make available applications that are similar to the Partner Application; and (b) the Partner may itself and through other distributors market, sell, and distribute versions of the Partner Application that operate independently of the Distribution Services and the SFDC Services (i.e., such other versions of the Partner Application cannot interact with or integrate to the Distribution Services and the SFDC Services, including via API calls).

**14.3. No Third Party Beneficiaries.** There are no third party beneficiaries under this Agreement.

**14.4. Notices.** Except as otherwise specified in this Agreement, all notices related to this Agreement will be in writing and will be effective upon (a) personal delivery, (b) the second business day after mailing, (c) the second business day after sending by confirmed facsimile, or (d), except for notices of termination or an indemnifiable claim ("**Legal Notices**"), the day of sending by email. Notices to SFDC will be addressed to the attention of the Partner Program Manager, with a copy to SFDC's General Counsel, at salesforce.com, inc., The Landmark at One Market, Suite 300, San Francisco, California 94105; fax (415) 901-7040; legal@salesforce.com; or as updated by SFDC via written notice to Partner. Billing-related notices to Partner will be addressed to the relevant billing contact designated by Partner, and Legal Notices to Partner will be addressed to the address provided above and be clearly identifiable as Legal Notices. All other notices to Partner will be addressed to the relevant Relationship Manager or

Distribution Services system administrator designated by Partner.

**14.5. Waiver.** No failure or delay by either Party in exercising any right under this Agreement will constitute a waiver of that right.

**14.6. Severability**. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement will remain in effect.

**14.7. Assignment.** Neither Party may assign any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of the other Party (not to be unreasonably withheld); provided however, either Party may assign this Agreement together with all rights and obligations hereunder, without consent of the other Party, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Notwithstanding the foregoing, if a Party is acquired by, sells substantially all of its assets to, or undergoes a change of control in favor of, a direct competitor of the other Party, then such other Party may terminate this Agreement upon written notice. Subject to the foregoing, this Agreement will bind and inure to the benefit of the Parties, their respective successors and permitted assigns.

**14.8. Entire Agreement.** This Agreement, and each applicable Partner Addendum, constitute the entire agreement between SFDC and Partner regarding Partner's distribution of Partner Applications and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. The Parties agree that any term or condition stated in a Partner order form or in any other Partner order documentation, including a purchase order (but excluding Service Orders) is void. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the applicable Service Order, (2) any exhibit schedule or addendum to this Agreement, (3) the body of this Agreement, (4) the Documentation and SFDC Branding Guidelines, and (5) the Salesforce Partner Program Agreement entered into between Partner and SFDC.

**14.9. Governing Law**. This Agreement, and any disputes arising out of or related hereto, will be governed exclusively by the internal laws of the State of California, without regard to its conflicts of laws rules or the United Nations Convention on the International Sale of Goods.

**14.10. Venue**. The state and federal courts located in San Francisco County, California will have exclusive jurisdiction over any dispute relating to this Agreement, and each party consents to the exclusive jurisdiction of those courts.

**14.11. Counterparts and Delivery by Fax.** This Agreement may be executed electronically, by facsimile and in counterparts.

**ISVFORCE ADDENDUM**
**TO**
**PLATFORM APPLICATION DISTRIBUTION AGREEMENT**
Template last updated February 7, 2018

**Signature Page**

| | |
|---|---|
| **Partner Name** | Verb Technology Company, Inc |
| **Partner Application Name(s)** | nFusz Interactive Video |

This ISVForce Addendum ("**ISVForce Addendum**") amends and supplements the Platform Application Distribution Agreement (the "**Agreement**") between Partner and SFDC (as defined in the Agreement). This ISVForce Addendum is effective as of the later of the dates beneath the parties' signatures below (the "**ISVForce Addendum Effective Date**"); provided, however that if such dates are separated by more than thirty (30) days this Agreement will be deemed null and void. Except as otherwise set forth herein, the terms of the Agreement shall apply to this ISVForce Addendum.

The parties' authorized signatories have duly executed this ISVForce Addendum as of the Effective Date.

**SFDC**

DocuSigned by:
By: Catherine Kelly
4FFBDDAC50D54C2...

Print Name: Catherine Kelly

Title: Senior Manager, Sales Operations

Date: January 30, 2019 | 17:40:52 PST

**Partner**

DocuSigned by:
By: Rory Cutaia
FBCC149FF8CC446...

Print Name: Rory Cutaia

Title: CEO

Date: February 4, 2019

**1. Additional Definitions**

"**ISVForce Services**" means Distribution Services used to facilitate (i) interoperability between Partner Applications and the SFDC Services, and (ii) the provision of Partner Application functionality, as described in the Product Guide. ISVForce Services are available as (i) an ISVForce Services subscription or (ii) an ISVForce Bundle. ISVForce Services exclude SFDC Services, Non-SFDC Applications, and Content.

"**License Management Application**" means SFDC's application for managing leads and entitlements to use Partner Applications. The License Management Application is provided as part of the ISVForce Services.

"**Partner Application**" for purposes of this ISVForce Addendum only, means each Partner Application approved by SFDC that is described in a Partner Application Description attached to this ISVForce Addendum as Exhibit B hereto.

"**Partner Community**" means the SFDC partner community at https://partners.salesforce.com/ (as such URL may be updated from time to time).

"**Product Guide**" means the product description currently accessible via the Partner Community at https://partners.SFDC.com/s/education/appvendors/ISVforce_Product_Guide, or at other links that SFDC provides to Partner from time to time.

"**SFDC Quarter**" means each three-month period following February 1 (i.e. February 1 through April 30, May 1 through July 31, August 1 through October 31, and November 1 through January 31).

"**User**" means an individual who is authorized by Customer to use an SFDC Service, for whom Customer has purchased a subscription (or in the case of SFDC Services provided by SFDC without charge, for whom an SFDC Service has been provisioned), and to whom Customer (or, when applicable, SFDC at Customer's request) has supplied a user identification and password (for SFDC Services utilizing authentication). Users may include, for example, employees, consultants, contractors and agents of Customer, an authorized Partner employee or agent and third parties with which Customer transacts business.

**2. ISVForce Services.**

**2.1.** Subject to the terms and conditions of the Agreement, SFDC hereby grants to Partner a nonexclusive, nontransferable, non-sublicenseable right to use the ISVForce Services to market, demonstrate, distribute and support Partner Applications.

**2.2.** Partner may not resell, sell, license, sublicense, distribute, make available, rent or lease any ISVForce Services, Content, or SFDC Services and may not use the ISVForce Services independent of a Partner Application.

**2.3.** Partner may only distribute Partner Applications for use in an SFDC Service Org containing active subscriptions to SFDC Services.

**2.4.** Partner may not, without SFDC's prior written consent (including pursuant to a separate written agreement), offer an application substantially similar to a Partner Application for use with SFDC Services or ISVForce Services that is not identified in Exhibit B. During and after the Term of the Agreement, to the extent that Partner creates an online application using the SFDC Services, Partner may not, without SFDC's prior written consent, make available such application to third parties (i.e. other than Partner or its Affiliates) unless authorized pursuant to this Agreement and subject to the terms and conditions set forth herein. Breach of this Section 2.4 will constitute a material breach of the Agreement.

**3. Fees.**

**3.1. Pricing.**

**3.1.1. Service Order Submission Payment Method**. For all Partner Applications, except as set forth in Section 3.1.2 below, Exhibit A-2 will apply to Partner.

**3.1.2. Checkout Payment Method**. If SFDC has pre-approved Partner in writing to use the "Checkout Payment Method" in connection with one or more sales of the Partner Application, then Exhibit A-1 will apply to

Partner with respect to such sales in lieu of Exhibit A-2.

3.2. **LMA Reports**. Within thirty (30) days of Partner's receipt of written notice from SFDC, Partner will provide SFDC with a report created via the License Management Application showing each Org in which the Partner Application is or has been installed.

4. **Retention of Customer Data.** SFDC's obligations to retain a Customer's Customer Data shall be solely as set forth in SFDC's agreement with the Customer. Any modifications to a Customer's data made by the Partner Application outside of the SFDC Services (if any) will not be captured in Customer Data (except to the extent that modified data is uploaded into the Customer's Org, thereby converting it to Customer Data) and the return of any such modified data that is not Customer Data shall be the responsibility of Partner. SFDC has no obligation to retain any Customer Data that is stored in custom fields made available to a Customer as part of the Partner Application ("**Custom Fields**") following the termination of the Partner's Service Order associated with such Customer. Customer may request a copy of its Customer Data prior to such termination, in which case SFDC will make the Customer Data available to Customer in accordance with the Documentation for the applicable SFDC Service. If a Customer stores Customer Data in a Custom Field, Partner will advise Customer of the foregoing two sentences in writing.

5. **Term**. Unless otherwise set forth in an exhibit to this ISVForce Addendum, the initial term of this ISVForce Addendum commences on the ISVForce Addendum Effective Date and ends 36 months thereafter ("**Initial Term**"), unless terminated earlier by either Party as set forth in the Agreement. Thereafter, this ISVForce Addendum will automatically renew for additional 12 month periods (each a "**Renewal Term**"), unless terminated earlier by either Party pursuant to the Agreement or unless either Party gives notice of non-renewal to the other Party no later than 30 days before the end of the Initial Term or the then-current Renewal Term. The Initial Term, all Renewal Terms and any Transition Period are referred to collectively as the "**ISVForce Term**."

6. **Counterparts**. This ISVForce Addendum may be executed electronically and in counterparts.

## Exhibit A-1 – PNR – Checkout

**Checkout Payment Method**.

**1. Additional Definitions**.

"**Checkout Order**" means orders for Partner Applications through a Checkout Service that are submitted by Partner to SFDC or any of SFDC's Affiliates from time to time.

"**Checkout Service**" means the payment services tool made available via the AppExchange and designated by SFDC as appropriate for processing payments under this ISVForce Addendum. Any Checkout Service is a Non-SFDC Application.

"**Checkout Service Provider**" means the third party provider of a Checkout Service.

"**PNR**" means 15%, or such higher percentage that SFDC and Partner have agreed to in writing, of the sales price to Customer (excluding sales tax, but including any withholding tax paid by Customer or Partner) of the applicable Partner Application.

**2. Checkout Requirement**. Partner will process all sales of the Partner Application through the Checkout Service.

**3. Fees, Invoicing and Payment**.

**3.1. Fees.**

**3.1.1.** For each day on which one or more Customers purchase the Partner Application using the Checkout Service, Partner and SFDC will each be entitled to a payment from the Checkout Service Provider based on the aggregate amount paid by Customers using the Checkout Service on that day to purchase the Partner Application. SFDC will receive the PNR from the Checkout Service Provider (less any amount separately agreed as a split between SFDC and the Checkout Service Provider), and Partner will receive the remainder of the aggregate net revenue (less any amount separately agreed to between Partner and the Checkout Service Provider) paid on a single day by all Customers (without reduction for any Taxes paid by Customer or Partner, other than sales tax) for Partner Application subscriptions as processed by the Checkout Service on that day, less any sales taxes. Partner may not use ISVForce Services to market, demonstrate, distribute and support Partner Applications if Partner discontinues use of the Checkout Service unless or until Partner has been enabled by SFDC to submit Service Orders for ISVForce Services through the Channel Order App. Payments described in this Section 3.3.1 are made approximately one week in arrears (or such other time period communicated by SFDC or the Checkout Service Provider to Partner).

**3.1.2.** If installation, access, and/or full use of any of the features and capabilities of a Partner Application requires a Customer to pay fees of any kind to Partner (i.e., the Partner Application integrates to or makes use of any application or other product or service for which Partner collects fees), then such fees will be deemed to be part of the sales price paid by Customers to Partner for the Partner Application for the purposes of calculating the PNR owed to SFDC by Partner under this Agreement, and Partner must contact the SFDC Relationship Manager for instructions about how to submit an order to SFDC for the additional fees due to SFDC based on such additional net revenue. The foregoing sentence shall not apply to fees that Partner charges solely to implement the Partner Application for the applicable Customer.

**3.2. Invoicing and Payment Terms**. Invoicing and payment terms applicable to Customers' purchases of Partner Applications through the Checkout Service will be as set forth in Partner's separate agreement for the Checkout Service with the Checkout Service Provider.

## Exhibit A-2 – PNR – Service Orders

**Service Order Payment Method**.

**1. Additional Definitions.**

"**Channel Order App**" means SFDC's Service Order submission application.

"**PNR**" means a specified percentage, that is set forth in the Product Catalog or the applicable Service Order, of the sales price to Customer (excluding sales tax, but including any withholding tax paid by Customer or Partner) of the applicable Partner Application.

"**Provisioning Information**" means the following information regarding the applicable Service Order:

a) Customer name and location
b) Org identification number
c) Name of ISVForce Services subscription type and quantity sold
d) Effective start date of Customer order
e) Auto-renewal (Y/N)
f) Date of Partner's receipt of Customer order
g) Aggregate Customer fees for Partner Application /month.

"**Product Catalog**" means the listing of ISVForce Services subscriptions and pricing terms that SFDC makes available for Partner to purchase pursuant to Service Orders, as set forth in Exhibit C of this ISVForce Addendum and as updated from time to time by SFDC via SFDC's online Service Order submission application.

**2. 1:1 Requirement.** For each Partner Application subscription (either per Org or per User) distributed by Partner, Partner must purchase one (1) subscription to the ISVForce Services.

**3. Service Orders.**

**3.1. Service Order Submission Requirement.** Partner will submit a complete and accurate Service Order to SFDC via SFDC's Channel Order App (or such other method pre-approved by SFDC in writing) for each ISVForce Services subscription that Partner is required to purchase pursuant to Section 2 above. Partner must submit each such Service Order within 1 business day of Partner's receipt of the Customer order for the applicable Partner Application subscriptions. Each Service Order is subject to SFDC's reasonable and good faith acceptance. Partner must submit a Service Order to SFDC for such ISVForce Services subscription within 1 business day of the date on which Partner begins charging fees for a Partner Application for which it was not previously charging fees. For the avoidance of doubt, Service Orders are not required if SFDC is not charging Partner fees for distribution of the Partner Application.

**3.2. Provisioning Information**. Each Service Order submitted via the Channel Order App must include the Provisioning Information. Partner represents and warrants that all such Provisioning Information submitted to SFDC will be true and correct and agrees to certify the same in writing, and to provide to SFDC copies of the documentation underlying the Provisioning Information, periodically, upon SFDC's request.

**3.3. Trial Subscriptions**. Partner is not required to submit a Service Order to SFDC for Trial Subscriptions; provided, however, that Partner must submit the applicable Service Order to SFDC within 1 business day of the expiration of a Trial Subscription to the extent otherwise required under this Exhibit A-2.

**3.4. No Cancellation.** Service Orders are non-cancelable by Partner after acceptance by SFDC. The number of

subscriptions specified in an accepted Service Order cannot be decreased before the end of the Service Order term, regardless of any termination, non-payment, non-use or other conduct or inaction on the part of the corresponding Customer.

**3.5. Channel Order App Certification.** Partner agrees that its personnel using the Channel Order App will complete SFDC's Channel Order App training, including passing the related certification exam, within thirty (30) days of the ISVForce Addendum Effective Date or, for those personnel who will start using the Channel Order App more than 30 days after the ISVForce Addendum Effective Date, in a timely manner.

**4. ISVForce Services Subscriptions**

**4.1. Subscription Term.** The term for each ISVForce Services subscription and renewal thereof shall be 1 month.

**4.2. Subscription Renewals.** Existing ISVForce Services subscriptions shall automatically renew unless terminated by either Party by providing 1 month prior written notice to the other Party. Partner must require that its orders with Customers for Partner Applications automatically renew.

**5. Fees, Invoicing and Payment.**

**5.1. Fees.**

**5.1.1.** Partner will pay SFDC fees for ISVForce Services as set forth in the applicable Service Order and in accordance with the Agreement.

**5.1.2.** If installation, access, and/or full use of any of the features and capabilities of a Partner Application require a Customer to pay fees of any kind to Partner (e.g.., the Partner Application integrates to or makes use of any application or other product or service for which Partner collects fees), then such fees will be deemed to be part of the sales price paid by Customers to Partner for the Partner Application an shall be included in the Service Order for the purposes of calculating the PNR owed to SFDC by Partner under this Agreement The foregoing sentence shall not apply to fees that Partner charges solely to implement the Partner Application for the applicable Customer.

**5.2. Invoicing and Payment.**

**5.2.1.** SFDC will invoice Partner on a monthly basis for the monthly fees set forth in the Service Orders for each Customer account. On or around the 10th of each month, SFDC will provide Partner with an account statement ("**Account Statement**") specifying the aggregate amounts due SFDC across all Customer accounts. Amounts invoiced in an Account Statement are due Net 30 days from receipt of the Account Statement (receipt deemed same day as sent if sent via email), and paid by wire transfer once each month. With each wire transfer payment, Partner shall provide SFDC with a listing of the SFDC invoices that Partner is making payments against with such payment.

**5.3. PNR Calculation Example.** PNR fees are calculated as set forth in the examples below. Note that the examples below use a PNR of 15%, actual PNR calculations will be based on Partner's agreed upon PNR as defined herein:

(i) USD PNR Calculation Example:
Monthly subscriptions for Partner Application (before Sales Tax) + Withholding Tax, if applicable = $12,000
↓
15% PNR Owed by Partner to SFDC for monthly subscription ($12,000 X 15% PNR) TOTAL= $1,800

(ii) Foreign Currency PNR Calculation Example:
€5,000 Monthly subscriptions for Partner Application (before Sales Tax) + Withholding Tax, if applicable

€5,000 x applicable conversion rate**
$6,530.64 = Converted to USD

$979.60 = 15% PNR Owed by Partner to SFDC for monthly subscription ($6,530.64 X 15% PNR)

*The applicable price shall be the greater of (a) the price calculated on a PNR basis or (b) if a flat-fee floor price is specified in the applicable Service Order, such flat-fee floor price.

**When calculating PNR fees due SFDC where Customer has paid Partner in a currency other than USD, Partner shall convert the fees under the applicable currency to USD prior to deducting any applicable withholding taxes, using the following spot conversion rate: WM Reuters official daily closing rates London close, as of the day prior to Partner's submission of the applicable initial Service Order for Customer's then current subscription term and updated upon each renewal.

**Exhibit B – Partner Application Description**

The Partner Application is an interactive video creation solution. Partner Application enables Partner Customer to create, edit, distribute, post, and track interactive videos in their client communications within their Org. The Partner Application also provides additional functionality, such as a set-up assistant, which allows Partner Customer to establish an outbound connection, data mapping for leads and contacts, and data exporting of leads. The Partner Application processes data off platform using AWS and Azure, which allows Partner Customers to serve and store videos to leads and contacts from within their Org.

**Exhibit C**
**Product Catalog**

nFusz, Inc.- nFusz Interactive Video – Exhibit C Product Catalog

| Product Name | Product Description | Pricing Type | PNR % | Floor Price | Fixed Price | Currency | Product Special Terms | Pricing Unit |
|---|---|---|---|---|---|---|---|---|
| ISVForce for nFusz Interactive Video (Per User) | ISVForce for nFusz Interactive Video is an ISVForce Services Subscription enabling support of your ISVForce Solution. | PNR | 15.00 | $0.00 | N/A | USD | N/A | User |

MAJOR TOM

**Service Agreement | nFusz | December 21, 2018**


Prepared by:
Jieun Segal
VP Sales & Marketing
jsegal@majortom.com

Prepared for:
Denise Butler
General Manager
denise@nfusz.com


**Setup/ Implementation & Monthly Management**
**Statement of Work (Media Plan, Option 3)**

| | Deliverable/Setup | Price ($USD) |
|---|---|---|
| Digital Advertising Campaign Setup | Google Search | $15,000 |
| | Google Display | |
| | Facebook | |
| | Instagram | |
| | LinkedIn | |
| | Network Video | |
| | Analytics/GTM | |
| | | |
| Email Automation | Workflow Strategy | $14,000 |
| | Hubspot configuration | |
| | 1 Custom Landing Page Design (Template) | |
| | Email Template design | |
| | | |
| Content Development | 4 blog posts (copy writing) | $13,000 |
| | 2 Infographic | |
| | 2 whitepapers/ebooks | |

| | | |
|---|---|---|
| Creative | 1 set of banner creative design (retargeting) - template | $5,000 |
| | 2 sets ad creative design (ad creative) - template | |
| | | |
| Project Management, Account Management & Reporting | Project Management (2.5 months) | $15,000 |
| | Set up Fee | $62,000 |
| | Less Value in Kind Services | ($5,000) |
| | **Total Setup Fee** | **$57,000** |
| | **Deliverable/Monthly** | **Price ($USD)** |
| **Monthly Mgmt** | Paid media optimization/testing | $8,000 |
| | Bi-weekly media check-in meetings | |
| | Data analysis & monthly reporting with insights | |
| | Creative development to support ongoing campaigns | |
| | **Monthly Fee (3 months)** | **$8,000/mo** |
| | | |
| | | |
| *** **Total Project Fee (Setup & 3 months of Monthly Mgmt) amortized over 6 months = $13,500/Month** | | |

MAJOR TOM

**Terms & Conditions**

Please initial or sign where applicable.

*Major Tom Agency Inc. ("Major Tom")* has agreed to provide Marketing Services and/or Web Development Services to nFusz (“The Client”) according to the following terms and conditions:

**Marketing Services**

The marketing services to be provided are those as set out in the budget page attached to this Agreement. The services to be provided are not a guarantee by Major Tom that the Client will meet its marketing objectives.

**Web Development Services**

The web development services to be provided are those as set out in the estimate attached to this Agreement. The estimate is based on our current understanding of the project and any additional requirements will be outside the included scope of work.

**Client Approval**

The Client will appoint a single representative with full authority to provide necessary information and approvals.

**Additional Scope**

Any revisions, additions, or alterations to the services or project outlined in this Agreement, shall be scoped as additional service and a statement of work provided for approval. Such additional services shall include, but are not limited to, changes in the extent of work, changes in the complexity of any elements of the project, and changes made after approval has been given for a specific stage.

MAJOR TOM

## Contract Term

Services will be completed timely in accordance with the schedule set out below.

| Contract Term |
| --- |
| This Agreement shall commence: Upon signed agreement<br><br>Number of months agreement will continue for: 6 months<br><br>If the client wishes to cancel services after the commitment of the monthly service of months as stated above, the client must provide 30 days written notice. Otherwise, the services will continue month-to-month.<br><br>Total project commitment is $81,000 amortized over 6 months. |
| Both parties agree to work expediently and economically, and to advise either party of any material changes in deadlines pertaining to this agreement. |

## Payment

The Client will pay in accordance with the payment schedule and terms set out below.

| Recurring Services / Expenses | | |
| --- | --- | --- |
| Item Description | **Amount ($USD)** | **Payment Due** |
| Services (amortized over 6 months) | $13,500/month | Due immediately upon agreement signing*<br><br>Due Net 30 – Invoiced at the Start of each Month |
| Expenses | TBD (refer to media plan, Option 3) | Direct Expense** |

*Work on the project will not be initiated until this deposit has been received.

**Advertising funds are a direct expense to the Client's credit card and are subject to the advertising platform's payment terms.

MAJOR TOM

Major Tom invoices that are paid by credit card will be subject to a 3% processing fee.

**Termination**

If either party is in default under this Agreement (including non-payment) then the non-defaulting party may immediately terminate this Agreement without prior notice to the other party. In the event of a project cancellation, the Client is obligated to pay only for work completed and approved expenditures.

The Client must provide 30 days written notice to cancel recurring monthly services.

**Ownership**

Intellectual property provided to Major Tom, including but not limited to, logo, trademarks, trade names, copyright material and content will remain the property of the Client. Materials designed and produced on behalf of the Client will become the Client's property upon full payment of all invoices.

Major Tom retains the right to use the work produced for the Client for promotional purposes, unless otherwise requested by the Client.

**Prohibition of Material**

The Client shall not provide Major Tom with any material, that to their knowledge, violates or infringes any copyright, trademark, trade secret or patent. The Client shall not provide any material that is libelous or slanderous, and acknowledges that Major Tom is in no way responsible for verifying material or holds any liability for misleading, false or untrue statements.

**Indemnity**

The Client agrees to indemnify and hold harmless Major Tom from any and all third party claims, demands, liabilities, costs and expenses, including reasonable legal fees, resulting from the Client's material breach of any duty under this agreement.

**Compliance with Law**

The Client will utilize the services of Major Tom only to promote and market a business which is consistent with all applicable local, provincial and federal laws and regulations.

Major Tom will perform the services in a manner which is consistent with all applicable local, provincial and federal laws and regulations.

**Governing Law**

This Agreement shall be construed in accordance with the internal laws of the State of New York, without regard to conflict of laws rules, and any action or proceeding arising out of or related to this Agreement shall be brought only in the courts of that jurisdiction.

**Entire Agreement**

This agreement supersedes all prior agreements and understandings between Major Tom and the Client for performance of services, and constitutes the complete agreement and understanding between the parties. The parties may amend this Agreement in a written document signed by both parties.

MAJOR TOM

## Signatories

This Agreement is effective as of the date in the contract terms above.

nFusz by its authorized signatory:

**Signature**: jeff clayborne **Position:** CFO

**Name**: **Date Signed:** 12/14/2018

| Mailing Address | Billing Address (if different) |
|---|---|
| | |

**Major Tom Agency Inc.** by its authorized signatory:

**Signature:** Jieun Segal **Position:** VP Sales & Marketing

**Name:** Jieun Segal **Date Signed:** 12/21/2018

Major Tom will be notified of the signed contract upon completion using PandaDoc Electronic Signature. We thank you for your business and look forward to working with you.

Exhibit 21.1

Subsidiaries

None

**CERTIFICATION PURSUANT TO**
**PURSUANT TO RULE 13A-14(A) UNDER THE SECURITIES EXCHANGE ACT OF 1934**

I, Rory J. Cutaia, certify that:

1. I have reviewed this annual report on Form 10-K for the year ended December 31, 2018 of nFüsz, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under my supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to me by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under my supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report my conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on my most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

February 7, 2019

*/s/ Rory Cutaia*
Rory Cutaia
President, Secretary, Chief Executive Officer, Director, and Principal Executive Officer

**CERTIFICATION PURSUANT TO**
**PURSUANT TO RULE 13A-14(A) UNDER THE SECURITIES EXCHANGE ACT OF 1934**

I, Jeff Clayborne, certify that:

1. I have reviewed this annual report on Form 10-K for the year ended December 31, 2018 of nFüsz, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under my supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to me by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under my supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report my conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on my most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

February 7, 2019

*/s/ Jeff Clayborne*
Jeff Clayborne
Chief Financial Officer, Principal Financial Officer, and Principal Accounting Officer

**CERTIFICATION PURSUANT TO**
**SECTION 1350 OF CHAPTER 63 OF TITLE 18 OF THE UNITED STATES CODE**

**The undersigned, Rory J. Cutaia, hereby certifies, pursuant to U.S.C. Section 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002, that**

1. the annual report on Form 10-K of nFüsz, Inc. for the fiscal year ended December 31, 2018 fully complies with the requirements of Section 13(a) or 15(d), as applicable of the Securities Exchange Act of 1934, as amended; and

2. the information contained in the Form 10-K fairly presents, in all material respects, the financial condition and results of operations of nFüsz, Inc.

February 7, 2019

*/s/ Rory Cutaia*
Rory J. Cutaia
President, Secretary, Chief Executive Officer, Director, and Principal Executive Officer

**CERTIFICATION PURSUANT TO**
**SECTION 1350 OF CHAPTER 63 OF TITLE 18 OF THE UNITED STATES CODE**

**The undersigned, Jeff Clayborne, hereby certifies, pursuant to U.S.C. Section 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002, that**

1. the annual report on Form 10-K of nFüsz, Inc. for the fiscal year ended December 31, 2018 fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

2. the information contained in the Form 10-K fairly presents, in all material respects, the financial condition and results of operations of nFüsz, Inc.

February 7, 2019

*/s/ Jeff Clayborne*
Jeff Clayborne
Chief Financial Officer, Principal Financial Officer, and Principal Accounting Officer