

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended March 31, 2013

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 000-53851

Mobivity Holdings Corp.

(Exact Name of Registrant as Specified in Its Charter)

Nevada

(State or Other Jurisdiction of
Incorporation or Organization)

26-3439095

(I.R.S. Employer
Identification No.)

58 W. Buffalo St. #200

Chandler, AZ 85225

(Address of Principal Executive Offices & Zip Code)

(866) 622-4261

(Registrant's Telephone Number)

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 No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, 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 and post such files). Yes No

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

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>

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

As of April 22, 2013, the registrant had 23,218,117 shares of common stock issued and outstanding.

MOBIVITY HOLDINGS CORP.
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Part I - Financial Information

Item 1. Financial Statements

**Mobivity Holdings Corp.
Consolidated Balance Sheets**

	March 31, 2013 (Unaudited)	December 31, 2012 (Audited)
ASSETS		
Current assets		
Cash	\$ 44,182	\$ 363
Accounts receivable, net of allowance for doubtful accounts of \$33,102 and \$44,700, respectively	211,278	414,671
Acquisition deposit	195,630	-
Other current assets	89,234	30,009
Total current assets	540,324	445,043
Equipment, net	12,255	14,111
Goodwill	2,259,624	2,259,624
Intangible assets, net	412,155	444,112
Other assets	33,800	187,117
TOTAL ASSETS	\$ 3,258,158	\$ 3,350,007
LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT)		
Current liabilities		
Accounts payable	\$ 608,114	\$ 514,949
Accrued interest	429,399	321,368
Accrued and deferred personnel compensation	274,929	299,534
Deferred revenue - related party	35,262	35,262
Deferred revenue and customer deposits	187,054	181,731
Convertible notes payable, net of discount	4,237,633	2,857,669
Notes payable	171,984	171,984
Derivative liabilities	4,194,373	3,074,504
Other current liabilities	112,246	250,144
Earn-out payable	-	2,032,881
Total current liabilities	10,250,994	9,740,026
Commitments and Contingencies (See Note 9)		
Stockholders' equity (deficit)		
Common stock, \$0.001 par value; 150,000,000 shares authorized; 23,218,117 and 23,218,117 shares issued and outstanding as of March 31, 2013 and December 31, 2012, respectively	23,218	23,218
Common stock payable	1,711,490	-
Additional paid-in capital	25,521,840	25,412,932
Accumulated deficit	(34,249,384)	(31,826,169)
Total stockholders' equity (deficit)	(6,992,836)	(6,390,019)
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT)	\$ 3,258,158	\$ 3,350,007

See accompanying notes to consolidated financial statements (unaudited).

Mobivity Holdings Corp.
Consolidated Statements of Operations
(Unaudited)

	Three months ended	
	March 31,	
	2013	2012
Revenues		
Revenues	\$ 1,027,993	\$ 1,013,206
Cost of revenues	<u>284,622</u>	<u>367,769</u>
Gross margin	743,371	645,437
Operating expenses		
General and administrative	532,628	917,582
Sales and marketing	362,896	347,251
Engineering, research, and development	94,055	160,213
Depreciation and amortization	<u>33,813</u>	<u>154,617</u>
Total operating expenses	1,023,392	1,579,663
Loss from operations	<u>(280,021)</u>	<u>(934,226)</u>
Other income/(expense)		
Interest income	3	-
Interest expense	(1,447,359)	(358,178)
Change in fair value of derivative liabilities	(1,001,550)	(460,487)
Gain on adjustment in contingent consideration	<u>305,712</u>	<u>60,651</u>
Total other income/(expense)	<u>(2,143,194)</u>	<u>(758,014)</u>
Loss before income taxes	<u>(2,423,215)</u>	<u>(1,692,240)</u>
Income tax expense	-	-
Net loss	<u>\$ (2,423,215)</u>	<u>\$ (1,692,240)</u>
Net loss per share - basic and diluted	<u>\$ (0.10)</u>	<u>\$ (0.07)</u>
Weighted average number of shares during the period - basic and diluted	<u>23,218,117</u>	<u>22,797,641</u>

See accompanying notes to consolidated financial statements (unaudited).

Mobivity Holdings Corp.
Consolidated Statements of Cash Flows
(Unaudited)

	Three months ended March 31,	
	2013	2012
OPERATING ACTIVITIES		
Net loss	\$ (2,423,215)	\$ (1,692,240)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Bad debt expense	(12,772)	46,384
Common stock issued for services	-	270,000
Stock-based compensation	93,502	113,861
Depreciation and amortization expense	33,813	154,617
Gain on adjustment in contingent consideration	(305,712)	(60,650)
Change in fair value of derivative liabilities	1,001,550	460,487
Amortization of deferred financing costs	-	35,154
Amortization of note discounts	1,334,729	277,349
Increase (decrease) in cash resulting from changes in:		
Accounts receivable	216,165	(29,797)
Other current assets	(59,225)	(324,119)
Other assets	-	2,939
Accounts payable	93,165	225,636
Accrued interest	108,031	41,740
Accrued and deferred personnel compensation	(24,605)	106,077
Deferred revenue - related party	-	(33,000)
Deferred revenue and customer deposits	5,323	9,912
Other liabilities	(260)	67,303
Net cash provided by (used in) operating activities	60,489	(328,347)
INVESTING ACTIVITIES		
Purchases of equipment	-	(5,515)
Acquisition deposit	(195,630)	-
Net cash used in investing activities	(195,630)	(5,515)
FINANCING ACTIVITIES		
Proceeds from issuance of notes payable, net of finance offering costs	200,000	585,100
Payments on notes payable	(21,040)	(188,894)
Payments on cash payment obligation	-	(62,500)
Net cash provided by financing activities	178,960	333,706
Net change in cash	43,819	(156)
Cash at beginning of period	363	396
Cash at end of period	\$ 44,182	\$ 240
Supplemental disclosures:		
Cash paid during period for :		
Interest	\$ 3,960	\$ 4,835
Non-cash investing and financing activities:		
Note discount	\$ 133,725	\$ 320,557
Adjustment to derivative liability due to note repayment	\$ 15,406	\$ 49,728
Common stock payable recorded for earn out payment related to the Boomtext acquisition	\$ 1,711,490	\$ -
Settlement of working capital asset related to the Boomtext acquisition	\$ 153,317	\$ -

See accompanying notes to consolidated financial statements (unaudited).

Mobivity Holdings Corp.
Consolidated Statements of Stockholders' Equity (Deficit)
(Unaudited)

	Common Stock		Common Stock Payable	Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Equity (Deficit)
	Shares	Dollars				
Balance, December 31, 2012	23,218,117	\$ 23,218	\$ -	\$ 25,412,932	\$ (31,826,169)	\$ (6,390,019)
Adjustment of derivative liability due to note repayment	-	-	-	15,406	-	15,406
Value of shares issuable for Boomtext earn-out payment	-	-	1,711,490	-	-	1,711,490
Stock based compensation	-	-	-	93,502	-	93,502
Net loss	-	-	-	-	(2,423,215)	(2,423,215)
Balance, March 31, 2013	23,218,117	\$ 23,218	\$ 1,711,490	\$ 25,521,840	\$ (34,249,384)	\$ (6,992,836)

See accompanying notes to consolidated financial statements (unaudited).

Mobivity Holdings Corp.
Notes to Consolidated Financial Statements
(Unaudited)

1. Reverse Merger Transaction and Accounting

Reverse Merger Transaction

Mobivity Holdings Corp. (the “Company”) was incorporated as Ares Ventures Corporation in Nevada in 2008. In November 2010, the Company acquired CommerceTel, Inc., which was wholly-owned by CommerceTel Canada Corporation, in a reverse merger, or the “Merger”. Pursuant to the Merger, all of the issued and outstanding shares of CommerceTel, Inc. common stock were converted, at an exchange ratio of 0.7268-for-1, into an aggregate of 10,000,000 shares of the Company’s common stock, and CommerceTel, Inc. became a wholly owned subsidiary of the Company. In connection with the Merger, the Company changed its corporate name to CommerceTel Corporation in October 2010. The accompanying condensed consolidated financial statements, common share and weighted average common share basic and diluted information have been retroactively adjusted to reflect the exchange ratio in the Merger.

In connection with the Company’s acquisition of assets from Mobivity, LLC (See Note 3 Acquisitions below), the Company changed its corporate name to Mobivity Holdings Corp. and its operating company from CommerceTel, Inc. to Mobivity, Inc., in August 2012.

Reverse Merger Accounting

Immediately following the consummation of the Merger: (i) the former security holders of Mobivity, Inc. common stock had an approximate 56% voting interest in the Company and the Company stockholders retained an approximate 44% voting interest; (ii) the former executive management team of Mobivity, Inc. remained as the only continuing executive management team for the Company; and (iii) the Company’s ongoing operations consist solely of the ongoing operations of Mobivity, Inc.

Based primarily on these factors, the Merger was accounted for as a reverse merger and a recapitalization in accordance with generally accepted accounting principles in the United States of America, or “GAAP”. As a result, these condensed financial statements reflect: (i) the historical results of Mobivity, Inc. prior to the Merger; (ii) the combined results of the Company following the Merger; and (iii) the acquired assets and liabilities at their historical cost. In connection with the Merger, the Company received net assets of \$16,496.

In December 2010, the Board of Directors of the Company resolved to change the Company’s fiscal year end from September 30 to December 31, effective immediately, to coincide with the fiscal year end of its wholly owned subsidiary Mobivity, Inc.

2. Nature of Operations and Summary of Significant Accounting Policies

Nature of Operations and Basis of Presentation

The Company is a provider of mobile marketing technology that enables major brands and enterprises to engage consumers via their mobile phones and other smart devices. Interactive electronic communications with consumers is a complex process involving communication networks and software. The Company removes this complexity through its suite of services and technologies thereby enabling brands, marketers, and content owners to communicate with their customers and consumers in general.

Principles of Accounting and Consolidation

These consolidated financial statements have been prepared in accordance with GAAP. The consolidated financial statements include the accounts of the Company and its wholly-owned subsidiary. All significant intercompany balances and transactions have been eliminated.

Going Concern

The Company's financial statements have been prepared assuming that it will continue as a going concern. Such assumption contemplates the realization of assets and satisfaction of liabilities in the normal course of business. However, we have incurred continued losses, have a net working capital deficiency, and have an accumulated deficit of approximately \$34.2 million as of March 31, 2013. These factors among others create a substantial doubt about our ability to continue as a going concern. The Company is dependent upon sufficient future revenues, additional sales of our securities or obtaining debt financing in order to meet its operating cash requirements. Barring the Company's generation of revenues in excess of its costs and expenses or its obtaining additional funds from equity or debt financing, or receipt of significant licensing prepayments, the Company will not have sufficient cash to continue to fund the operations of the Company through September 30, 2013. These consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

In response to our Company's cash needs, we raised additional bridge financing totaling \$3,596,350 between January 2012 and March 2013. Longer term, we anticipate that we will raise additional equity financing through the sale of shares of the Company's common stock in order to finance our future investing and operating cash flow needs. However, there can be no assurance that such financings will be available on acceptable terms, or at all.

We anticipate, based on currently proposed plans and assumptions relating to our ability to market and sell our products, that our cash on hand will not satisfy, our operational and capital requirements for the next six months. Further, the operation of our business and our efforts to grow our business further both through acquisitions and organically will require significant cash outlays and commitments. The timing and amount of our cash needs may vary significantly depending on numerous factors. Our existing working capital is not sufficient to meet our cash requirements and we will need to seek additional capital, potentially through debt, or equity financings, to fund our growth.

Although we are actively pursuing financing opportunities, we may not be able to raise cash on terms acceptable to us or at all. There can be no assurance that we will be successful in obtaining additional funding. Financings, if available, may be on terms that are dilutive to our shareholders, and the prices at which new investors would be willing to purchase our securities may be lower than the current price of our ordinary shares. The holders of new securities may also receive rights, preferences or privileges that are senior to those of existing holders of our ordinary shares. If additional financing is not available or is not available on acceptable terms, we will have to curtail our operations in the short term.

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 and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of expenses during the reporting period. Significant estimates used are those related to stock-based compensation, the valuation of the derivative liabilities, asset impairments, the valuation and useful lives of depreciable tangible and certain intangible assets, the fair value of common stock used in acquisitions of businesses, the fair value of assets and liabilities acquired in acquisitions of businesses, and the valuation allowance of deferred tax assets. Management believes that these estimates are reasonable; however, actual results may differ from these estimates.

Purchase Accounting

The Company accounts for acquisitions pursuant to Accounting Standards Codification ("ASC") No. 805, *Business Combinations*. The Company records all acquired tangible and intangible assets and all assumed liabilities based upon their estimated fair values.

Cash

The Company minimizes its credit risk associated with cash by periodically evaluating the credit quality of its primary financial institution. The balance at times may exceed federally insured limits. The Company has not experienced any losses on such accounts. The Company's cash balances at March 31, 2013 and December 31, 2012 were \$44,182 and \$363, respectively.

Fair Value of Financial Instruments

On January 1, 2011, the Company adopted guidance which defines fair value, establishes a framework for using fair value to measure financial assets and liabilities on a recurring basis, and expands disclosures about fair value measurements. Beginning on January 1, 2011, the Company also applied the guidance to non-financial assets and liabilities measured at fair value on a non-recurring basis, which includes goodwill and intangible assets. The guidance establishes a hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable inputs be used when available. Observable inputs are inputs that market participants would use in pricing the asset or liability developed based on market data obtained from sources independent of the Company. Unobservable inputs are inputs that reflect the Company's assumptions of what market participants would use in pricing the asset or liability developed based on the best information available in the circumstances. The hierarchy is broken down into three levels based on the reliability of the inputs as follows:

Level 1 - Valuation is based upon unadjusted quoted market prices for identical assets or liabilities in active markets that the Company has the ability to access.

Level 2 -Valuation is based upon quoted prices for similar assets or liabilities in active markets; quoted prices for identical or similar assets or liabilities in inactive markets; or valuations based on models where the significant inputs are observable in the market.

Level 3 - Valuation is based on models where significant inputs are not observable. The unobservable inputs reflect the Company's own assumptions about the inputs that market participants would use.

The following table presents assets and liabilities that are measured and recognized at fair value as of March 31, 2013 on a recurring and non-recurring basis:

Description	Level 1	Level 2	Level 3	Gains (Losses)
Goodwill (non-recurring)	\$ -	\$ -	\$ 2,259,624	\$ -
Intangibles, net (non-recurring)	\$ -	\$ -	\$ 412,155	\$ -
Derivatives (recurring)	\$ -	\$ -	\$ 4,194,373	\$ (1,001,550)

The following table presents assets and liabilities that are measured and recognized at fair value as of December 31, 2012 on a recurring and non-recurring basis:

Description	Level 1	Level 2	Level 3	Gains (Losses)
Goodwill (non-recurring)	\$ -	\$ -	\$ 2,259,624	\$ (742,446)
Intangibles, net (non-recurring)	\$ -	\$ -	\$ 444,112	\$ (145,396)
Derivatives (recurring)	\$ -	\$ -	\$ 3,074,504	\$ 359,530

The Company recorded goodwill and intangible assets as a result of the business combinations that were completed during 2011. These assets were valued with the assistance of a valuation consultant and consisted of Level 3 valuation techniques.

The Company recorded derivative liabilities as a result of: (i) the variable maturity conversion feature ("VMCO") in its convertible notes payable; (ii) the additional security issuance feature ("ASID") in its convertible notes payable notes, common stock and warrants; and (iii) warrants issued to non-employees that are treated as derivative liabilities. These liabilities were valued with the assistance of a valuation consultant and consisted of Level 3 valuation techniques.

The Company's financial instruments consist of cash, accounts receivable, accounts payable, accrued liabilities and notes payable. The estimated fair value of cash, accounts receivable, accounts payable and accrued liabilities approximate their carrying amounts due to the short-term nature of these instruments. The carrying value of notes payable also approximates fair value because their terms are similar to those in the lending market for comparable loans with comparable risks. None of these instruments are held for trading purposes.

Accounts Receivable and Factoring Agreement

Accounts Receivable

Accounts receivable are carried at their estimated collectible amounts. The Company grants unsecured credit to substantially all of its customers. Ongoing credit evaluations are performed and potential credit losses are charged to operations at the time the account receivable is estimated to be uncollectible. Since the Company cannot necessarily predict future changes in the financial stability of its customers, the Company cannot guarantee that its reserves will continue to be adequate.

From time to time, the Company may have a limited number of customers with individually large amounts due. Any unanticipated change in one of the customer's credit worthiness could have a material effect on the results of operations in the period in which such changes or events occurred. As of March 31, 2013 and December 31, 2012, the Company recorded an allowance for doubtful accounts of \$33,102 and \$44,700, respectively. As of March 31, 2013 and December 31, 2012, one customer's balance represented 11% and 43%, respectively, of total accounts receivable.

Factoring Agreement

In connection with a factoring agreement that the Company entered into during the three months ended March 31, 2013, the Company transfers ownership of eligible accounts receivable with recourse to a third party purchaser in exchange for cash. The Company receives a percentage of the proceeds immediately upon sale of the account, and receives the remaining proceeds once the third party purchaser collects on the account. Proceeds from the transfer reflect the face value of the account less a discount. The discount is recorded as a loss in operations in the period of the sale.

Factoring discount fees, which increase based on the time frame of receivables outstanding, approximate 2% of the invoice amount as of March 31, 2013, with the customer repaying the invoice within 90 days from the invoice date.

During the three months ended March 31, 2013, the Company sold \$290,577 of trade accounts receivable, received cash proceeds of \$237,009, and recorded fees and losses related to the sales of \$5,635 in general and administrative expense in the consolidated statement of operations. At March 31, 2013, the third party purchaser owes the Company \$47,933 which is recorded in other current assets.

Equipment

Equipment, which is recorded at cost, consists primarily of computer equipment and is depreciated using the straight-line method over the estimated useful lives of the related assets (generally five years or less). Costs incurred for maintenance and repairs are expensed as incurred and expenditures for major replacements and improvements are capitalized and depreciated over their estimated remaining useful lives. Depreciation expense for the periods ended March 31, 2013 and 2012 was \$1,856 and \$6,618, respectively. Accumulated depreciation for the Company's equipment at March 31, 2013 and December 31, 2012 totaled \$158,030 and \$156,174, respectively.

Net property and equipment were as follows:

	March 31, 2013	December 31, 2012
Equipment	\$ 155,716	\$ 155,716
Furniture and Fixtures	14,569	14,569
Subtotal	170,285	170,285
Less accumulated depreciation	(158,030)	(156,174)
Total	<u>\$ 12,255</u>	<u>\$ 14,111</u>

Goodwill and Other Intangible Assets

During the year ended December 31, 2011, the Company completed three acquisitions which resulted in the recording of goodwill and other intangible assets.

Also during the year ended December 31, 2011, the Company capitalized \$85,000 related to its acquisition of U.S. Patent Number 6,788,769 from eMediacy, Inc. for cash and 14,286 shares of common stock, and costs incurred to prosecute other patent applications. The Company is amortizing the costs on a straight-line basis over an estimated useful life of twenty years.

The Company periodically reviews the carrying value of intangible assets not subject to amortization, including goodwill, to determine whether impairment may exist. Goodwill and certain intangible assets are assessed annually, or when certain triggering events occur, for impairment using fair value measurement techniques. These events could include a significant change in the business climate, legal factors, a decline in operating performance, competition, sale or disposition of a significant portion of the business, or other factors. Specifically, goodwill impairment is determined using a two-step process. The first step of the goodwill impairment test is used to identify potential impairment by comparing the fair value of a reporting unit with its carrying amount, including goodwill. The Company uses Level 3 inputs and a discounted cash flow methodology to estimate the fair value of a reporting unit. A discounted cash flow analysis requires one to make various judgmental assumptions including assumptions about future cash flows, growth rates, and discount rates. The assumptions about future cash flows and growth rates are based on the Company's budget and long-term plans. Discount rate assumptions are based on an assessment of the risk inherent in the respective reporting units. If the fair value of a reporting unit exceeds its carrying amount, goodwill of the reporting unit is considered not impaired and the second step of the impairment test is unnecessary. If the carrying amount of a reporting unit exceeds its fair value, the second step of the goodwill impairment test is performed to measure the amount of impairment loss, if any. The second step of the goodwill impairment test compares the implied fair value of the reporting unit's goodwill with the carrying amount of that goodwill. If the carrying amount of the reporting unit's goodwill exceeds the implied fair value of that goodwill, an impairment loss is recognized in an amount equal to that excess. The implied fair value of goodwill is determined in the same manner as the amount of goodwill recognized in a business combination. That is, the fair value of the reporting unit is allocated to all of the assets and liabilities of that unit (including any unrecognized intangible assets) as if the reporting unit had been acquired in a business combination and the fair value of the reporting unit was the purchase price paid to acquire the reporting unit.

The Company's evaluation of goodwill completed during the year ended December 31, 2012 resulted in an impairment charge of \$742,446, related to its three acquisitions during 2011.

As of March 31, 2013 and December 31, 2012, amortizable intangible assets consist of patents, trademarks, customer contracts, customer relationships, trade name, acquired technology, and non-compete agreements. These intangibles are being amortized on a straight line basis over their estimated useful lives of one to twenty years.

During the year ended December 31, 2012 the Company recognized an impairment charge of \$145,396 related to the intangible assets acquired in its three acquisitions during 2011.

Impairment of Long-Lived Assets

The Company has adopted Accounting Standards Codification subtopic 360-10, "Property, Plant and Equipment" ("ASC 360-10"). ASC 360-10 requires that long-lived assets and certain identifiable intangibles held and used by the Company be reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. The Company evaluates its long-lived assets for impairment annually or more often if events and circumstances warrant. Events relating to recoverability may include significant unfavorable changes in business conditions, recurring losses or a forecasted inability to achieve break-even operating results over an extended period. The Company evaluates the recoverability of long-lived assets based upon forecasted undiscounted cash flows. Should impairment in value be indicated, the carrying value of intangible assets will be adjusted, based on estimates of future discounted cash flows resulting from the use and ultimate disposition of the asset. ASC 360-10 also requires that those assets to be disposed of are reported at the lower of the carrying amount or the fair value less costs to sell.

Derivative Financial Instruments

The Company does not use derivative instruments to hedge exposures to cash flow, market or foreign currency risks.

The Company reviews the terms of the common stock, warrants and convertible debt it issues to determine whether there are embedded derivative instruments, including embedded conversion options, which are required to be bifurcated and accounted for separately as derivative financial instruments. In circumstances where the host instrument contains more than one embedded derivative instrument, including the conversion option, that is required to be bifurcated, the bifurcated derivative instruments are accounted for as a single, compound derivative instrument.

Bifurcated embedded derivatives are initially recorded at fair value and are then revalued at each reporting date with changes in the fair value reported as non-operating income or expense. When the equity or convertible debt instruments contain embedded derivative instruments that are to be bifurcated and accounted for as liabilities, the total proceeds received are first allocated to the fair value of all the bifurcated derivative instruments. The remaining proceeds, if any, are then allocated to the host instruments themselves, usually resulting in those instruments being recorded at a discount from their face value.

The discount from the face value of the convertible debt, together with the stated interest on the instrument, is amortized over the life of the instrument through periodic charges to interest expense, using the effective interest method.

The fair value of the derivatives is estimated using a Monte Carlo simulation model. The model utilizes a series of inputs and assumptions to arrive at a fair value at the date of inception and each reporting period. Some of the key assumptions include the likelihood of future financing, stock price volatility, and discount rates.

See Note 4 for detailed information on the Company's derivative liabilities.

Revenue Recognition

The Company's "C4" Mobile Marketing and Customer Relationship Management (CRM) and Txtstation Control Center platforms are hosted solutions. The Company generates revenue from licensing its software to clients in its software as a service (SaaS) model, per-message and per-minute transactional fees, and customized professional services. The Company recognizes license fees over the period of the contract, service fees as the services are performed, and per-message or per-minute transaction revenue when the transaction takes place. The Company recognizes revenue at the time that the services are rendered, the selling price is fixed, and collection is reasonably assured, provided no significant obligations remain. The Company considers authoritative guidance on multiple deliverables in determining whether each deliverable represents a separate unit of accounting. As for the Mobivity and Boomtext platforms, which are both hosted solutions, revenue is principally derived from subscription fees from customers. The subscription fee is billed on a month to month basis with no contractual term and is collected by credit card for Mobivity and collected by cash and credit card for Boomtext. Revenue is recognized at the time that the services are rendered and the selling price is fixed with a set range of plans. Cash received in advance of the performance of services is recorded as deferred revenue.

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As of March 31, 2013 and December 31, 2012, deferred revenues from related parties totaled \$35,262 and \$35,262 respectively. The Company recognized deferred revenue from related parties during the periods ended March 31, 2013 and 2012 totaling \$-0- and \$33,000, respectively. As of March 31, 2013 and December 31, 2012, deferred revenues from third parties totaled \$169,954 and \$164,631, respectively.

During the period ended March 31, 2013, one customer accounted for 29% of our revenues.

Stock-based Compensation

The Company accounts for stock-based compensation in accordance with Financial Accounting Standards Board (“FASB”) ASC Topic 718 Stock Compensation, which establishes accounting for equity instruments exchanged for employee services. Under such provisions, stock-based compensation cost is measured at the grant date, based on the calculated fair value of the award, and is recognized as an expense, under the straight-line method, over the employee’s requisite service period (generally the vesting period of the equity grant). In accordance with ASC 718, the Company estimates forfeitures at the time of grant and revises the estimates if necessary, if actual forfeiture rates differ from those estimates. Stock options issued to employees are accounted for at their estimated fair value determined using the Black-Scholes option-pricing model. The Company recorded employee stock based compensation for the periods ended March 31, 2013 and 2012 of \$64,960 and \$92,255, respectively. The Company recorded director stock based compensation for the periods ended March 31, 2013 and 2012 of \$28,542 and \$21,606, respectively. See Note 6.

The Company accounts for equity instruments, including restricted stock or stock warrants, issued to non-employees in accordance with authoritative guidance for equity based payments to non-employees. Stock warrants issued to non-employees are accounted for as derivative liabilities at their estimated fair value determined using a Monte Carlo simulation. At the date of issuance, the fair value of the stock warrants is expensed to change in fair value of derivative liabilities. The fair value of options granted to non-employees is re-measured as they vest, and the resulting change in value, if any, is recognized as change in fair value of derivative liabilities during the period the related services are rendered. Restricted stock issued to non-employees is accounted for at its estimated fair value as it vests. See Note 4.

Comprehensive Income (Loss)

Comprehensive income (loss) is defined as the change in equity during a period from transactions and other events and circumstances from non-owner sources. The Company is required to record all components of comprehensive income (loss) in the consolidated financial statements in the period in which they are recognized. Net income (loss) and other comprehensive income (loss), including foreign currency translation adjustments and unrealized gains and losses on investments, are reported, net of their related tax effect, to arrive at comprehensive income (loss). For the periods ended March 31, 2013 and 2012, the comprehensive loss was equal to the net loss.

Net Loss Per Common Share

Net loss per share is presented as both basic and diluted net loss per share. Basic net loss per share excludes any dilutive effects of options, shares subject to repurchase and warrants. Diluted net loss per share includes the impact of potentially dilutive securities. During the periods ended March 31, 2013 and 2012, the Company had securities outstanding which could potentially dilute basic earnings per share in the future, but were excluded from the computation of diluted net loss per share, as their effect would have been anti-dilutive.

Reclassifications

Certain amounts from prior periods have been reclassified to conform to the current period presentation.

Recent Accounting Pronouncements

Accounting standards promulgated by the FASB are subject to change. Changes in such standards may have an impact on the Company’s future financial statements. The following are a summary of recent accounting developments.

In October 2012, the FASB issued Accounting Standards Update (ASU) 2012-04, “Technical Corrections and Improvements” in Accounting Standards Update No. 2012-04. The amendments in this update cover a wide range of Topics in the Accounting Standards Codification. These amendments include technical corrections and improvements to the Accounting Standards Codification and conforming amendments related to fair value measurements. The amendments in this update will be effective for fiscal periods beginning after December 15, 2012. The adoption of ASU 2012-04 is not expected to have a material impact on our financial position or results of operations.

3. Goodwill and Purchased Intangibles

Goodwill

The Company completed three acquisitions in 2011 that resulted in the recording of goodwill. The carrying value of goodwill at March 31, 2013 and December 31, 2012 was \$2,259,624 and \$2,259,624, respectively.

As required under ASC 350, “Intangibles - Goodwill and Other”, goodwill is separately disclosed from other intangible assets on the consolidated balance sheet and not amortized, and is tested for impairment on at least an annual basis.

Beginning in 2011, the Company performed its annual goodwill impairment test outlined under ASC 350 which requires the assessment of goodwill for impairment on an annual basis. The first step of the goodwill impairment test is used to identify potential impairment by comparing the fair value of a reporting unit with its carrying amount, including goodwill. The Company uses level 3 inputs and a discounted cash flow methodology to estimate the fair value of a reporting unit. A discounted cash flow analysis requires one to make various judgmental assumptions including assumptions about future cash flows, growth rates, and discount rates. The assumptions about future cash flows and growth rates are based on the Company’s budget and long-term plans. Discount rate assumptions are based on an assessment of the risk inherent in the respective reporting units. If the fair value of a reporting unit exceeds its carrying amount, goodwill of the reporting unit is considered not impaired and the second step of the impairment test is unnecessary. If the carrying amount of a reporting unit exceeds its fair value, the second step of the goodwill impairment test is performed to measure the amount of impairment loss, if any. The second step of the goodwill impairment test compares the implied fair value of the reporting unit’s goodwill with the carrying amount of that goodwill. If the carrying amount of the reporting unit’s goodwill exceeds the implied fair value of that goodwill, an impairment loss is recognized in an amount equal to that excess. The implied fair value of goodwill is determined in the same manner as the amount of goodwill recognized in a business combination. That is, the fair value of the reporting unit is allocated to all of the assets and liabilities of that unit (including any unrecognized intangible assets) as if the reporting unit had been acquired in a business combination and the fair value of the reporting unit was the purchase price paid to acquire the reporting unit.

Intangible assets

The following table presents details of the Company’s total purchased intangible assets as of March 31, 2013 and December 31, 2012:

	Balance at December 31, 2012	Amortization	Balance at March 31, 2013
Patents and trademarks	\$ 111,620	\$ (2,099)	\$ 109,521
Customer contracts	78,765	(6,059)	72,706
Customer relationships	29,056	(7,264)	21,792
Trade name	30,588	(2,353)	28,235
Technology / IP	193,458	(13,557)	179,901
Non-compete	625	(625)	-
	<u>\$ 444,112</u>	<u>\$ (31,957)</u>	<u>\$ 412,155</u>

The intangible assets are being amortized on a straight line basis over their estimated useful lives of one to twenty years. During the periods ended March 31, 2013 and 2012, the Company recorded amortization expense related to its purchased intangibles of \$31,957 and \$147,999, respectively, which is included in depreciation and amortization in the consolidated statement of operations.

The estimated future amortization expense of purchased intangible assets as of March 31, 2013 is as follows:

Year ending December 31,	Amount
2013	\$ 93,999
2014	96,275
2015	96,275
2016	47,570
2017	8,396
Thereafter	69,640
Total	<u>\$ 412,155</u>

Beginning in 2011, the Company evaluated its purchased intangibles for possible impairment on an ongoing basis. When impairment indicators exist, the Company will perform an assessment to determine if the intangible asset has been impaired and to what extent. The assessment of purchased intangibles impairment is conducted by first estimating the undiscounted future cash flows to be generated from the use and eventual disposition of the purchased intangibles and comparing this amount with the carrying value of these assets. If the undiscounted cash flows are less than the carrying amounts, impairment exists and future cash flows are discounted at an appropriate rate and compared to the carrying amounts of the purchased intangibles to determine the amount of the impairment.

4. Derivative Liabilities

As discussed in Note 5 under Bridge Financing, the Company issued convertible notes payable that provide for the issuance of warrants to purchase its common stock at a future date. The conversion term for the convertible notes is variable based on certain factors. The number of warrants to be issued is based on the future price of the Company's common stock. As of March 31, 2013 and December 31, 2012, the number of warrants to be issued is indeterminate. Due to the fact that the number of warrants issuable is indeterminate, the equity environment is tainted and all additional warrants and convertible debt are included in the value of the derivative. Pursuant to ASC 815-15 "Embedded Derivatives", the fair values of the VMCO and the ASID were recorded as derivative liabilities on the issuance date.

As discussed in Note 6 under Common Stock, the Company completed a private placement in September 2011. The private placement structure consisted of a series of identical subscription agreements for the sale of units comprised of shares of the Company's common stock at a price of \$1.50 per share and an equivalent number of warrants at an exercise price of \$2.00. Both the common shares and the warrants contain anti-dilutive, or down round, price protection. Pursuant to ASC 815-15 Embedded Derivatives and ASC 815-40 Contracts in Entity's Own Equity, the Company recorded a derivative liability for the warrants issued in the transactions.

In October 2012, the exercise price of the warrants was reduced from \$2.00 per share to \$0.50 per share as a result of the price protection guarantee contained in the warrant agreement.

The down round price protection on the common shares expired in August 2012, and the down round price protection for the warrants terminates when the warrants expire or are exercised.

As discussed in Note 5 under Bridge Financing, all note holders with convertible notes payable maturing in February 2012 extended the maturity date through May 2012. As consideration to the note holders for the extension of the maturity date, the Company provided allonges which consisted of the accrued interest on each convertible note payable as of January 31, 2012. The allonges are convertible into shares of common stock at the latest financing price. The value of the allonges was recorded as a derivative liability at the issuance date.

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As discussed in Note 6 under Warrants, the Company accounts for warrants issued to non-employees as derivative liabilities.

The fair values of the Company's derivative liabilities are estimated at the issuance date and are revalued at each subsequent reporting date using a Monte Carlo simulation discussed below. At March 31, 2013 and December 31, 2012, the Company recorded current derivative liabilities of \$4,194,373 and \$3,074,504. The net change in fair value of the derivative liabilities for the periods ended March 31, 2013 and 2012 was a loss of \$1,001,550 and \$460,487, respectively, which were reported as other income/(expense) in the consolidated statements of operations.

The following table presents the derivative liabilities by instrument type as of March 31, 2013 and December 31, 2012:

Derivative Value by Instrument Type	March 31, 2013	December 31, 2012
Convertible Bridge Notes	\$ 3,911,699	\$ 2,850,085
Common Stock and Warrants	154,342	129,378
Non-employee Warrants	128,332	95,041
	\$ 4,194,373	\$ 3,074,504

The following table presents details of the Company's derivative liabilities from December 31, 2012 to March 31, 2013:

	Total
Balance December 31, 2011	\$ 1,573,859
Issuances in derivative value due to new security issuances of notes	5,352,404
Issuances in derivative value due to allonges	118,633
Issuances in derivative value due to vesting of non-employee warrants	485,700
Adjustment to derivative liability due to note repayment	(167,827)
Adjustment to derivative liability due to note conversion	(3,323,084)
Adjustment to derivative liability due to warrant expiration	(1,318)
Change in fair value of derivative liabilities	(963,863)
Balance December 31, 2012	3,074,504
Issuances in derivative value due to new security issuances of notes	133,725
Issuances in derivative value due to vesting of non-employee warrants	12,581
Adjustment to derivative liability due to note repayment	(15,406)
Change in fair value of derivative liabilities	988,969
Balance March 31, 2013	\$ 4,194,373

The Company calculated the fair value of the compound embedded derivatives using a complex, customized Monte Carlo simulation model suitable to value path dependent American options. The model uses the risk neutral methodology adapted to value corporate securities. This model utilized subjective and theoretical assumptions that can materially affect fair values from period to period.

Key inputs and assumptions used in valuing the Company's derivative liabilities are as follows:

For issuances of notes, common stock and warrants:

- Stock prices on all measurement dates were based on the fair market value
- Down round protection is based on the subsequent issuance of common stock at prices less than \$0.50 per share and warrants less than \$0.50 per share
- The probability of future financing was estimated at 100%
- Computed volatility ranging from 87.7% to 88.4%
- Risk free rates ranging from 0.07% to 0.25%

For issuances of non-employee warrants:

- Computed volatility of 88.1%
- Risk free rates ranging from 0.35% to 0.42%
- Expected life (years) ranging from 2.73 to 3.52

See Note 8 for a discussion of fair value measurements.

5. Bridge Financing, Notes Payable, Accrued Interest and Cash Payment Obligation

Bridge Financing

Summary

From 2010 to 2013, the Company issued 10% Senior Secured Convertible Bridge Notes Payable to various accredited investors, and then extended the due dates on the majority of the convertible notes payable several times. These convertible notes payable are collectively referred to as “Bridge Notes” or “new Bridge Notes”. At March 31, 2013, the due date on the outstanding new Bridge Notes was April 15, 2013. As discussed in Note 12, the due date on the new Bridge Notes was extended to October 15, 2013.

The Bridge Notes contain embedded derivative liabilities. In accordance with ASC 470-20 “Debt with Conversion and Other Options”, the Company recorded discounts for the VMCO and ASID. The discounts are amortized to interest expense over the term of the convertible notes payable using the effective interest method. In accordance with ASC 815-15 “Embedded Derivatives”, the Company determined that the VMCO and the ASID represented embedded derivative features, and these are shown as derivative liabilities on the consolidated balance sheet. See Note 4.

The Company capitalized costs associated with the issuance of the Bridge Notes, and amortized these costs to interest expense over the term of the related Bridge Notes using the effective interest method.

The Company’s obligations under the new Bridge Notes outstanding at March 31, 2012 are secured by all of the assets of the Company, including all shares of Mobivity, Inc., its wholly owned subsidiary.

As of March 31, 2013, the amount owed to one note holder of \$36,659 was past due. This amount was repaid in April 2013, see Note 12.

The following table summarizes information relative to the outstanding new Bridge Notes at March 31, 2013 and December 31, 2012:

	March 31, 2013	December 31, 2012
Bridge notes payable	\$ 4,521,378	\$ 4,342,418
Less unamortized discounts:		
VMCO	(84,547)	(481,390)
ASID	(199,198)	(1,003,359)
Bridge notes payable, net of discounts	<u>\$ 4,237,633</u>	<u>\$ 2,857,669</u>

Following is a detailed discussion of the Bridge Notes transactions.

2011 and Prior

From November 2010 through March 2011, the Company issued to a number of accredited investors a series of its 10% Senior Secured Convertible Bridge Notes Payable (the “Bridge Notes”) in the aggregate principal amount of \$1,010,000 (the “Financing”). The Bridge Notes accrued interest at the rate of 10% per annum.

The entire principal amount evidenced by the Bridge Notes (the “Principal Amount”) plus all accrued and unpaid interest were due on the earlier of (i) the date the Company completed a financing transaction for the offer and sale of shares of common stock (including securities convertible into or exercisable for its common stock), in an aggregate amount of no less than 125% of the Principal Amount (a “Qualifying Financing”), and (ii) November 2, 2011. If the Bridge Notes were held to maturity, the Company would pay, at the option of the holder: i) in cash or ii) in securities to be issued by the Company in the Qualifying Financing at the same price paid by other investors. The Bridge Notes were secured by a first priority lien and security interest in all of the Company’s assets.

In November 2011, the Company entered into agreements with all holders of the then outstanding Bridge Notes. Under the terms of the agreements, holders of Bridge Notes totaling \$800,000 agreed to extend the maturity due date of the Bridge Notes to February 2, 2012. For these note holders, no change occurred in their rights.

Holders of the balance of the Bridge Notes totaling \$210,000 agreed to convert the entire principal amount plus all accrued and unpaid interest of \$20,271 into units (each, a “Unit”), each of which consists of one share of common stock of the Company and a four-year warrant to purchase one share of the Company’s common stock at \$2.00 per share. The conversion took place at a price of \$1.50 per Unit. Accordingly, the Company issued an aggregate of 153,515 shares of common stock and 153,515 warrants. As a result of the conversion, the holders of the converted Bridge Notes forfeited all rights there under, including the right to acquire warrants to purchase the Company’s common stock.

Also in November 2011, the Company issued additional Bridge Notes in the aggregate principal amount of \$262,500. These Bridge Notes were due February 2, 2012 and contained the same rights and privileges as the previously issued Bridge Notes.

2012 and 2013

In January, 2012, the Company issued additional Bridge Notes in the principal amount of \$520,000. These Bridge Notes were due February 2, 2012 and contained the same rights and privileges as the previously issued Bridge Notes.

In March 2012, the Company repaid Bridge Notes totaling \$65,000.

In April 2012, all note holders with Bridge Notes maturing in February 2, 2012 extended the maturity date through May 2, 2012. As consideration to the note holders for the extension of the maturity date, the Company provided allonges which consisted of the accrued interest for each Bridge Note as of January 31, 2012, which are convertible into shares of common stock at the latest financing price. The value of the allonges was recorded as a derivative liability. See Note 4.

In March 2012 and April 2012, the Company issued additional Bridge Notes in the aggregate principal amount of \$220,100 with a due date of May 2, 2012. In May 2012, these notes were cancelled and converted into the new Bridge Notes discussed below.

In May and June 2012, the Company issued to a number of accredited investors its new Bridge Notes in the principal amount of \$4,347,419 (the “new Bridge Notes”), consisting of (i) \$2,656,250 of new funds and (ii) \$1,691,169 of principal amount plus accrued and unpaid interest outstanding under its previously issued Bridge Notes that were cancelled and converted into the new Bridge Notes. The new Bridge Notes accrue interest at the rate of 10% per annum.

The entire principal amount under the new Bridge Notes (the “new Principal Amount”) plus all accrued and unpaid interest is due on the earlier of (i) the date the Company completes a financing transaction for the offer and sale of shares of common stock (including securities convertible into or exercisable for its common stock), in an aggregate amount of no less than 125% of the new Principal Amount (a “new Qualifying Financing”), and (ii) October 15, 2012, which date, as described below, was later extended to April 15, 2013. Payments may be made in cash, or, at the option of the holder of the new Bridge Notes, in securities to be issued by the Company in the new Qualifying Financing at the same price paid for such securities by other investors. The new Bridge Notes are secured by a first priority lien and security interest in all of the Company’s assets.

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The Company will also issue to the holders of the new Bridge Notes on the date that is the earlier of the repayment of the new Bridge Notes or the completion of the new Qualifying Financing, at their option:

- five year warrants to purchase that number of shares of common stock equal to the new Principal Amount plus all accrued and unpaid interest divided by the per share purchase price of the common stock offered and sold in the new Qualifying Financing (the "Offering Price") which warrants shall be exercisable at the Offering Price and shall include cashless exercise provisions commencing 18 months from the date of issuance of the warrants if there is not at that time an effective registration statement covering the shares of common stock exercisable upon exercise of the warrants, or
- that number of shares of common stock equal to the product arrived at by multiplying (x) the new Principal Amount plus all accrued and unpaid interest divided by the Offering Price and (y) 0.33.

The Company has granted piggy-back registration rights with respect to the securities to be issued in connection with the new Bridge Notes.

The new Bridge Notes further provide that in the event of a change of control transaction, the proceeds from such transaction must be used by the Company to pay to the holders of the new Bridge Notes, pro rata based on the amount of new Bridge Notes owned by each holder, an amount equal to 1.5 times the amount of the aggregate principal amount outstanding under the new Bridge Notes, plus all accrued and unpaid interest due there under, plus all other fees, costs or other charges due there under.

The holders of the new Bridge Notes were also granted the right to appoint two designees to serve as members of the Company's board of directors, which members will also serve as members of the Compensation Committee and the Audit Committee of the Company's board of directors.

The Company used \$184,081 from the proceeds of the sale of the new Bridge Notes to pay off existing principal balances under the Bridge Notes that were not cancelled and converted into the new Bridge Notes.

In October 2012 and continuing thereafter, the Company entered into amendments with the holders the new Bridge Notes. Under the terms of the amendments, the holders of new Bridge Notes in the aggregate principal amount of \$4,342,419 agreed to extend the maturity date of the new Bridge Notes to April 15, 2013. In consideration of the new Bridge Note holders' agreement to extend the maturity date, the amendment provides that the holder shall have the option to convert the principal and interest under the new Bridge Note into the securities offered by the Company in a qualifying equity financing at the lower of (a) the same price paid for such securities by other investors investing in the financing or (b) \$0.50 per share (subject to adjustment in the event of a stock split, reclassification or the like). Prior to the amendment, the conversion option under the new Bridge Note entitled the holder to convert the principal and interest under the new Bridge Note into the securities offered by the Company in a qualifying equity financing at the same price paid for such securities by other investors investing in the financing. The conversion price of \$0.50 in (b) above triggered the price protection guarantee contained in the warrants issued in the Company's 2011 private placement, and the exercise price on the warrants changed from \$2.00 per share to \$0.50 per share.

In November 2012, the Company repaid a new Bridge Note totaling \$5,000.

In January 2013, the Company partially repaid a new Bridge Note totaling \$21,040.

In March 2013, the Company issued new Bridge Notes totaling \$200,000 that contain the same rights and privileges as the previously issued new Bridge Notes.

Discounts recorded related to the Bridge Notes

In accordance with ASC 470-20 Debt with Conversion and Other Options, the Company recorded discounts to the Bridge Notes for the VMCO and ASID. The discounts will be amortized to interest expense over the term of the Bridge Notes using the effective interest method.

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In accordance with ASC 815-15, the Company determined that the VMCO and the ASID represented embedded derivative features, and these are shown as derivative liabilities on the balance sheet. See Note 5.

The Company calculated the fair value of the compound embedded derivatives associated with the Bridge Notes utilizing a complex, customized Monte Carlo simulation model suitable to value path dependent American options. The model uses the risk neutral methodology adapted to value corporate securities. This model utilized subjective and theoretical assumptions that can materially affect fair values from period to period.

The new Bridge Notes contain embedded derivatives that on their inception date were valued with a Monte Carlo simulation. The embedded derivatives, as they represent additional consideration given to the new Bridge Note holders, were treated as a discount on the debt that is being amortized over the life of the new Bridge Notes which originally ended on October 15, 2012. The note discounts booked as reductions to the new Bridge Notes during 2012 were fully amortized to interest expense in 2012.

The new Bridge Notes with the extended due date of April 15, 2013 contain embedded derivatives that on their inception date were valued with a Monte Carlo simulation. The embedded derivatives, as they represent additional consideration given to the new Bridge Note holders, were treated as a discount on the debt that is being amortized over the life of the new Bridge Notes which now ends on April 15, 2013. The note discounts recorded as reductions to the new Bridge Notes during October 2012 were \$849,135 and \$1,769,857, respectively, for the VMCO and the ASID. The Company recorded \$1,272,642 of interest expense during the three months ended March 31, 2013 related to the amortization of these discounts. The value of the discounts at March 31, 2013 is \$212,107 which will be amortized to interest expense through April 15, 2015 using the effective interest method.

The Company recorded a VMCO discount of \$29,451 and an ASID discount of \$104,274 as reductions to the new Bridge Notes issued in March 2013. The Company recorded \$62,087 of interest expense during the three months ended March 31, 2013 related to the amortization of these discounts. The value of the discounts at March 31, 2013 is \$71,638 which will be amortized to interest expense through April 15, 2013 using the effective interest method.

The following table presents details of the Company's discounts to its Bridge Notes from December 31, 2011 to March 31, 2013:

	<u>VMCO</u>	<u>ASID</u>	<u>Total</u>
December 31, 2011	\$ (12,031)	\$ (47,739)	\$ (59,770)
Additions	(1,409,797)	(3,942,607)	(5,352,404)
Amortization	<u>940,438</u>	<u>2,986,987</u>	<u>3,927,425</u>
December 31, 2012	(481,390)	(1,003,359)	(1,484,749)
Additions	(29,451)	(104,274)	(133,725)
Amortization	426,294	908,435	1,334,729
March 31, 2013	<u>\$ (84,547)</u>	<u>\$ (199,198)</u>	<u>\$ (283,745)</u>

During the three months ended March 31, 2013 and 2012, the Company recorded note discount amortization to interest expense of \$1,334,729 and \$274,097, respectively.

Deferred financing costs related to the Bridge Notes

The Company capitalizes deferred financing costs and amortizes the capitalized amounts to interest expense over the term of the Bridge Notes using the effective interest method. The Company recorded interest expense related to the amortization of deferred financing costs for the three months ended March 31, 2013 and 2012 totaling \$-0- and \$35,154, respectively.

Digimark, LLC Notes

As partial consideration for the acquisition of Boomtext in 2011, the Company issued an unsecured subordinated promissory note in the principal amount of \$194,658. The promissory note does not bear interest; is payable in installments (varying in amount) from August 2011 through October 2012; and is subordinated to the Company's obligations under its Bridge Notes discussed above.

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The \$194,658 unsecured subordinated promissory note did not bear interest. Accordingly, the Company recorded the promissory note at the present value of the payments over the subsequent periods which amounted to \$182,460. The Company used a discount rate of 6.25% in calculating the net present value of the unsecured promissory note. The discount rate was based on the Company's estimated cost of debt capital. Under the effective interest method, the Company accretes the debt discount to the face amount of the promissory note. Accretion of the debt discount for the three months ended March 31, 2013 and 2012 totaled \$-0- and \$2,466, respectively. Accretion of the debt discount was charged to interest expense in accordance with FASB ASC 480 "Distinguishing Liabilities from Equity".

The outstanding balance on the promissory note at March 31, 2013 and December 31, 2012 is \$100,000 for both dates. This note is currently past due.

Summary of Notes Payable and Accrued Interest

The following table summarizes the Company's notes payable and accrued interest as of March 31, 2013 and December 31, 2012:

	Notes Payable		Accrued Interest	
	March 31, 2013	December 31, 2012	March 31, 2013	December 31, 2012
Bridge notes, net, as discussed above	\$ 4,237,633	\$ 2,857,669	\$ 364,741	\$ 261,213
Convertible notes payable, net of discounts	<u>4,237,633</u>	<u>2,857,669</u>	<u>364,741</u>	<u>261,213</u>
Unsecured (as amended) note payable due to our Company's former Chief Executive Officer, interest accrues at the rate of 9% compounded annually, all amounts due and payable December 31, 2008. Currently past due.	20,000	20,000	14,530	13,775
Note payable due to a trust, interest accrues at the rate of 10% per annum, all amounts due and payable December 31, 2006. The Company is negotiating the terms of this note. Currently past due.	51,984	51,984	25,579	24,297
Digimark, LLC subordinated promissory note, net, as discussed above. Currently past due.	100,000	100,000	24,549	22,083
Notes payable	<u>171,984</u>	<u>171,984</u>	<u>64,658</u>	<u>60,155</u>
Totals	<u>\$ 4,409,617</u>	<u>\$ 3,029,653</u>	<u>\$ 429,399</u>	<u>\$ 321,368</u>

Interest Expense

The following table summarizes interest expense for the three months ended March 31, 2013 and 2012:

	Three months ended March 31,	
	2013	2012
Amortization of note discounts	\$ 1,334,729	\$ 277,349
Amortization of deferred financing costs	-	35,154
Other interest expense	112,630	45,675
	<u>\$ 1,447,359</u>	<u>\$ 358,178</u>

The Company paid interest in cash during the three months ended March 31, 2013 and 2012 totaling \$3,960 and \$4,835, respectively.

6. Stockholders' Equity (Deficit)

Common Stock

The Company did not issue any shares of common stock during the three months ended March 31, 2013, and had 23,218,117 shares of common stock outstanding as of that date.

Common Stock Payable

The Company has an earn-out commitment associated with the acquisition of Boomtext from Digimark, LLC. The earn-out payment (payable March 31, 2013) consists of a number of shares of common stock of the Company equal to (a) 1.5, multiplied by the Company's net revenue from acquired customers and customer prospects for the twelve-month period beginning six months after the closing date, divided by (b) the average of the volume-weighted average trading prices of the Company's common stock for the 25 trading days immediately preceding the earn-out payment (subject to a collar of \$1.49 and \$2.01 per share).

As of March 31, 2013, the estimated value of the earn-out payment of \$1,711,490 has been recorded as common stock payable in stockholders' deficit. As of December 31, 2012, the estimated value of the earn-out payment of \$2,032,881 was recorded as a current liability.

The Company expects to issue approximately 1,148,000 shares of common stock in satisfaction of the earn-out payment during the second quarter of 2013.

For the three months ended March 31, 2013 and 2012, the Company recorded a gain related to the change in the estimated dollar value of the earn-out payable of \$305,712 and \$60,651, respectively, which are recorded in other income/(expense) in the consolidated statement of operations.

Stock-based Compensation

2010 Incentive Stock Option Plan

In December, 2010, the Company adopted the 2010 Incentive Stock Option Plan ("the 2010 Plan"), subject to shareholder approval within one year. Shareholder approval was not obtained within one year, therefore incentive stock options granted under the 2010 Plan converted to non-qualified stock options. The 2010 Plan permits the Company to grant up to 3,124,000 shares of common stock and options to purchase shares of common stock. The 2010 Plan is designed to retain directors, executives and selected employees and consultants and reward them for making major contributions to the success of the Company. These objectives are accomplished by making long-term incentive awards under the 2010 Plan thereby providing participants with a personal interest in the growth and performance of the Company.

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The Company believes that such awards better align the interests of its employees with those of its shareholders. Option awards are generally granted with an exercise price that equals the fair market value of the Company's stock at the date of grant. These option awards generally vest based on four years of continuous service and have five-year or 10-year contractual terms.

A summary of option activity under the 2010 Plan from December 31, 2012 to March 31, 2013 is presented below:

	Number Outstanding	Weighted - Average Exercise Price Per Share	Weighted - Average Remaining Contractual Life (Years)	Aggregate Intrinsic Value
Outstanding at December 31, 2012	1,955,000	\$ 0.77	4.44	\$ -
Granted	375,000	\$ 0.25	4.95	
Exercised	-	\$ -	-	
Canceled/forfeited/expired	(67,709)	\$ 1.19	3.80	
Outstanding at March 31, 2013	<u>2,262,291</u>	\$ 0.67	4.34	\$ -
Options vested and exercisable at March 31, 2013	<u>724,577</u>	\$ 0.90	4.34	\$ -
Unrecognized expense at March 31, 2013	<u>\$ 696,493</u>			

The aggregate intrinsic value in the table above represents the total intrinsic value (the difference between the Company's closing price at fiscal year-end and the exercise price, multiplied by the number of in-the-money options) that would have been received by the option holders had all option holders exercised their options on the date indicated.

The total number of shares vested and the fair value of shares vested for the three months ended March 31, 2013 and 2012, respectively, was:

	Number of Options Vested	Fair Value of Options Vested
Fair value of options vested during the three months ended March 31, 2013	168,125	\$ 103,184
Fair value of options vested during the three months ended March 31, 2012	398,636	\$ 184,839

The following table summarizes information concerning options outstanding at March 31, 2013:

Awards Breakdown by Range as at March 31, 2013						
Exercise Price	Outstanding			Vested		
	Outstanding Stock Options	Weighted Average Remaining Contractual Life	Weighted Average Outstanding Exercise Price	Vested Stock Options	Weighted Average Remaining Vested Contractual Life	Weighted Average Vested Stock Price
\$ 0.25 to \$0.69	1,747,500	4.34	\$ 0.38	421,873	2.73	\$ 0.32
\$ 1.16 to \$1.80	514,791	6.23	\$ 1.65	302,704	6.57	\$ 1.70

The following table summarizes information concerning options outstanding at December 31, 2012:

Awards Breakdown by Range as at December 31, 2012						
Exercise Price	Outstanding			Vested		
	Outstanding Stock Options	Weighted Average Remaining Contractual Life	Weighted Average Outstanding Exercise Price	Vested Stock Options	Weighted Average Remaining Vested Contractual Life	Weighted Average Vested Stock Price
\$ 0.32 to \$0.69	1,410,000	3.71	\$ 0.43	374,997	2.98	\$ 0.32
\$ 1.16 to \$1.80	545,000	6.33	\$ 1.66	181,455	6.30	\$ 1.69

The Company measures and recognizes compensation expense for all stock-based payment awards made to employees and directors based upon estimated fair values. During the three months ended March 31, 2013 and 2012, the Company recorded stock-based compensation in operating expenses for employees and directors totaling \$93,502 and \$113,861, respectively.

The Company vesting term for employees is generally a 4 year term and vest as follows; the first installment equaling 25% of the grant, shall become exercisable on the first anniversary of the date of the Option, and additional installments shall become exercisable monthly at the rate of 1/36 of the 75% grant balance over the ensuing 36 months. During the three months ended March 31, 2013 and 2012, the Company recorded \$64,960 and \$92,255 of employee stock based compensation and expects to expense approximately \$535,000 of additional employee stock based compensation over the next twelve months.

The Company vesting term for directors is generally a 3 year term and vest as follows; in (3) equal annual installments of 33 1/3% of the Shares covered by this Option, the first installment to be exercisable on the first anniversary of the date of the Option, with an additional 33 1/3% of such Shares becoming exercisable on each of the two successive anniversary dates. During the three months ended March 31, 2013 and 2012, the Company recorded \$28,542 and \$21,606 of director stock based compensation and expects to expense approximately \$162,000 of additional director stock based compensation over the twelve months.

Valuation Assumptions

The Company uses the Black-Scholes option pricing model in determining its option expense. The weighted-average estimated fair value of the employee stock options granted during the three months ended March 31, 2013 and 2012 was \$0.14 per share and \$0.50 per share, respectively. The ranges of assumptions used during the three months ended March 31, 2013 and 2012 are as follows:

	Stock Option Assumptions for the three months ended March 31,	
	2013	2012
Expected volatility	122.0%	65.0%
Risk-free interest rate	0.42% to 0.60%	0.30% to 0.45%
Forfeiture rate	16.0%	0.0%
Expected dividend rate	0.0%	0.0%
Expected life (yrs)	2.77 to 3.58	2.77 to 3.58

The expected volatility in 2013 is based on the historical publicly traded price of the Company's common stock. The expected volatility prior to 2013 is based on the weighted average of the historical volatility of publicly traded surrogates in the Company's peer group.

The risk-free interest rate assumption is based upon published interest rates appropriate for the expected life of the Company's employee stock options.

The dividend yield assumption is based on the Company's history of not paying dividends and no future expectations of dividend payouts.

The expected life of the stock options represents the weighted-average period that the stock options are expected to remain outstanding and was determined based on historical experience of similar awards, giving consideration to the contractual terms of the stock-based awards, vesting schedules and expectations of future employee behavior as influenced by changes to the terms of its stock-based awards.

The following table summarizes weighted average grant date fair value activity:

	Weighted Average Grant Date Fair Value	
	2013	2012
Stock options granted during the three months ended March 31,	\$ 0.17	\$ 0.54
Stock options vested during the three months ended March 31,	\$ 0.61	\$ 0.45
Stock options canceled/forfeited/expired during the three months ended March 31,	\$ 0.47	\$ 0.26

Warrants issued to non-employees

In December 2010, the Company issued 700,000 warrants for consulting services. The warrants vest over a 4 year term and vest as follows: the first installment equaling 25% of the grant is exercisable on the first anniversary of the date of the warrant; and additional installments are exercisable monthly at the rate of 1/36 of the 75% grant balance over the ensuing 36 months.

In January 2011, the Company issued 200,000 warrants for consulting services. The warrants vest over a 4 year term and vest as follows: the first installment equaling 25% of the grant is exercisable on the first anniversary of the date of the warrant; and additional installments shall become exercisable monthly at the rate of 1/36 of the 75% grant balance over the ensuing 36 months.

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In July 2011, the Company issued 5,000 warrants for consulting services. The warrants vest over a 4 year term and vest as follows: the first installment equaling 25% of the grant is exercisable on the first anniversary of the date of the warrant; and additional installments are exercisable monthly at the rate of 1/36 of the 75% grant balance over the ensuing 36 months.

In February 2012, the Company issued 25,000 warrants for consulting services. The warrants vest over twelve months beginning on the first monthly anniversary of the grant. The Company terminated the services of said consultant during the year ended December 31, 2012 and the warrants were canceled in accordance with the warrant agreement.

As of March 31, 2013, vested warrants totaled 679,575 pursuant to the three non-employee warrant agreements.

The warrants issued to non-employees are accounted for as derivative liabilities pursuant to the authoritative guidance for equity based payments to non-employees. The warrants were valued using a Monte Carlo Simulation. See Note 4 for assumptions used in the Monte Carlo simulation.

The fair values of the warrants are estimated at the vesting date and are revalued at each subsequent reporting date. At March 31, 2013 and December 31, 2012, the Company recorded derivative liabilities for the non-employee warrants totaling \$128,332 and \$95,041, respectively. The change in fair value of the derivative liabilities for the three months ended March 31, 2013 and 2012 was a loss of \$33,291 and \$320,944, respectively, which was recorded in change in fair value of derivative liabilities in the consolidated statements of operations.

A summary of non-employee warrant activity under the 2010 Plan from December 31, 2012 to March 31, 2013 is presented below:

	Number Outstanding	Weighted - Average Exercise Price Per Share	Weighted - Average Remaining Contractual Life (Years)	Aggregate Intrinsic Value
Outstanding at December 31, 2012	905,000	\$ 0.33	4.10	\$ -
Granted	-	-	-	-
Exercised	-	-	-	-
Canceled/forfeited/expired	-	-	-	-
Outstanding at March 31, 2013	<u>905,000</u>	0.33	3.85	\$ -
Warrants vested and exercisable at March 31, 2013	<u>679,575</u>	\$ 0.33	3.54	\$ -

The following table summarizes information concerning warrants outstanding at March 31, 2013:

Awards Breakdown by Range as at March 31, 2013							
Outstanding				Vested			
Exercise Price	Outstanding Warrants	Weighted Average Remaining Contractual Life	Weighted Average Outstanding Exercise Price	Vested Warrants	Weighted Average Remaining Vested Contractual Life	Weighted Average Vested Stock Price	
\$ 0.32	900,000	3.86	\$ 0.32	677,076	3.54	\$ 0.32	
\$ 1.75	5,000	3.27	\$ 1.75	2,499	3.27	\$ 1.75	

The following table summarizes information concerning warrants outstanding at December 31, 2012:

Outstanding				Vested			
Exercise Price	Outstanding Warrants	Weighted Average Remaining Contractual Life	Weighted Average Outstanding Exercise Price	Vested Warrants	Weighted Average Remaining Vested Contractual Life	Weighted Average Vested Stock Price	
\$ 0.32	900,000	4.10	\$ 0.32	620,827	3.76	\$ 0.32	
\$ 1.75	5,000	3.52	\$ 1.75	2,187	3.52	\$ 1.75	

Warrants issued to note holders

As discussed in Note 5 under Bridge Financing, the Company is obligated to issue warrants or shares pursuant to its Bridge Notes. The number of warrants / shares issuable pursuant to the agreements is not known as of March 31, 2013.

During the year ended December 31, 2011, the Company issued warrants for the purchase of 688,669 shares of common stock at \$2.00 per share in connection with its private placement discussed above under Common Stock. The warrants are exercisable for four years from the date of issuance, and contain anti-dilution, or down round, price protection as long as the warrant remains outstanding. In addition, the Company issued warrants for the purchase of 153,515 shares of common stock at \$2.00 per share in connection with the conversion of its outstanding Bridge Notes with a principal amount of \$210,000 discussed above in Note 5 under Bridge Financing. The warrants are exercisable for four years from the date of issuance. In October 2012, the exercise price of the warrants was reduced from \$2.00 per share to \$0.50 per share as a result of the price protection guarantee contained in the warrant agreement.

The number of warrants issued to these note holders remains unchanged at March 31, 2013. The estimated fair value of these warrants is included in the "Common Stock and Warrants" derivative value (see Note 4) as of March 31, 2013 and December 31, 2012.

7. Income Taxes

The Company maintains deferred tax assets that reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. These deferred tax assets include net operating loss carryforwards, deferred revenue and stock-based compensation. In assessing the potential realization of deferred tax assets, the Company considers whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during periods in which those temporary differences become deductible. The Company considers projected future taxable income and planning strategies in making this assessment. Based on the level of historical operating results and projections for the taxable income for the future, the Company has determined that it is more likely than not that the deferred tax assets will not be realized. Accordingly, the Company has recorded a valuation allowance to reduce deferred tax assets to zero. There can be no assurance that the Company will ever be able to realize the benefit of some or all of the federal and state loss carryforwards, either due to ongoing operating losses or due to ownership changes, which limit the usefulness of the loss carryforwards.

The Company has determined that during 2010 it experienced a “change of ownership” as defined by Section 382 of the Internal Revenue Code. As such, utilization of net operating loss carryforwards and credits generated before the 2010 change in ownership will be limited to approximately \$207,000 per year until such carryforwards are fully utilized. The pre change net operating loss carryforward was approximately \$7,000,000.

8. Fair Value Measurements

Fair value is defined as an exit price, representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants. As such, fair value is a market-based measurement that should be determined based on assumptions that market participants would use in pricing an asset or liability. As a basis for considering such assumptions, the authoritative guidance establishes a three-tier value hierarchy, which prioritizes the inputs used in measuring fair value as follows: (Level 1) observable inputs such as quoted prices in active markets; (Level 2) inputs other than the quoted prices in active markets that are observable either directly or indirectly; and (Level 3) unobservable inputs in which there is little or no market data, which require the Company to develop its own assumptions. This hierarchy requires companies to use observable market data, when available, and to minimize the use of unobservable inputs when determining fair value. On a recurring basis, the Company measures certain financial assets and liabilities at fair value, including its derivative liabilities.

At March 31, 2013 and December 31, 2012, the Company recorded a derivative liability related to the VMCO and the ASID in connection with its Bridge Notes (See Note 5), and the common stock and warrants issued in 2011 (See Note 6 under Common Stock) at the aggregate fair value of \$4,194,373 and \$3,074,504 utilizing unobservable inputs. The change in fair value of these liabilities is included in other income (expense) in the consolidated statements of operations. The assumptions used in the Monte-Carlo simulation used to value the derivative liabilities involve expected volatility in the Company’s common stock, estimated probabilities related to the occurrence of a future financing, and interest rates. As all the assumptions employed to measure this liability are based on management’s judgment using internal and external data, this fair value determination is classified in Level 3 of the valuation hierarchy.

See Note 4 for a table that provides a reconciliation of the beginning and ending balances of the derivative liabilities as of December 31, 2012 and March 31, 2013.

9. Commitments and Contingencies

Litigation

In September 2012, the Company initiated litigation against a former client (the “Defendant”) for failure to pay the Company’s invoices for services rendered under its Master License and Services Agreement. The complaint was filed in Superior Court of California, San Diego County. The litigation seeks to recover \$67,795 in services and interest penalties. As of March 31, 2013, negotiations to settle the litigation with the Defendant have ceased, and the Company is seeking to obtain a judgment against the Defendant.

Operating Lease and Lease Exit Obligation

The Company has a lease agreement for 6,730 square feet, as amended, for its office facilities in Chandler Arizona through December 2015. Monthly rental payments, excluding common area maintenance charges, are \$11,557 in 2013, \$11,958 in 2014 and \$12,357 in 2015.

The minimum lease payments required over the next five years is shown below.

Minimum Lease Payments	
2013	\$ 104,007
2014	143,492
2015	148,281
2016	-
2017	-
Thereafter	-
	<u>\$ 395,780</u>

The Company had a lease agreement for its office facilities in San Diego, California through September 2012. Upon signing a lease agreement for the facility in Chandler, the Company determined it no longer needed the San Diego facility. The property was vacated in November 2011 and returned to the owner. As of March 31, 2013, the Company has a Lease Exit Obligation which consists of unpaid rent totaling \$36,615 for the period December 2011 through September 2012. The Company expects no further charges in relation to this lease exit obligation, aside from actual common area maintenance charges reconciled against the estimate.

Rent expense for both the San Diego, California, and Chandler, Arizona facilities (including related common area maintenance charges and lease abandonment charges) was \$42,795 and \$49,289, respectively, for the three months ended March 31, 2013 and 2012.

Letter of Intent

In November 2012, the Company entered into a non-binding Letter of Intent to acquire the assets of Sequence, LLC (the "Seller") related to a mobile customer loyalty application. The acquired assets will include, but not be limited to, all application software, URL's, websites, trademarks, brands, customers and customer lists. The Company would assume no liabilities of the Seller.

The purchase price consists of: (1) \$300,000 in cash to satisfy identified liabilities of Seller, with priority to back employee taxes, trust funds, penalties and interest; (2) 750,000 shares of the Company's common stock; and (3) twenty-four monthly earn-out payments consisting of 10% of the eligible monthly revenue subsequent to closing.

The original Letter of Intent was to expire January 15, 2013. In January 2013, an amendment was executed to the Letter of Intent to acquire the assets of Sequence, LLC, extending the expiration date to March 15, 2013. As of March 31, 2013, the Letter of Intent has expired, but the parties to the Letter of Intent are moving forward with the acquisition transaction.

In March 2013, the Company paid \$195,630 of the required \$300,000 cash payment to the Seller, and recorded this payment as an acquisition deposit in current assets. The Company completed the acquisition transaction in May 2013, see Note 12.

10. Employee Benefit Plan

The Company has an employee savings plan (the “Plan”) pursuant to Section 401(k) of the Internal Revenue Code (the “Code”), covering all of its employees. Participants in the Plan may contribute a percentage of compensation, but not in excess of the maximum allowed under the Code. The Company may make contributions at the discretion of its Board of Directors. During the three months ended March 31, 2013 and 2012, the Company made no contributions to the Plan.

11. Related Party Transactions

Prior to the reverse merger on November 2, 2010, Optimal Payments Corporation converted \$570,534 of debt into \$370,534 worth of Mobivity Inc. common stock and \$200,000 of prepaid services to be rendered by Mobivity. A member of the Company’s Board of Directors is currently President of Sterling Card Solutions, which has a minority ownership position in Optimal Payments Corporation. The Company recognized revenue from this related party during the three months ending March 31, 2013 and 2012 totaling \$-0- and \$33,000, respectively. As of March 31, 2013, the remaining balance of prepaid services is \$35,262.

See Note 12 for related party transactions completed subsequent to March 31, 2013.

12. Subsequent Events

Bridge Notes

In April 2013, the Company issued new Bridge Notes totaling \$75,000 that contain the same rights and privileges as the previously issued new Bridge Notes.

In April 2013, the Company repaid a new Bridge Note totaling \$36,659.

In April 2013, the Company issued a new Bridge Note to its Chief Financial Officer totaling \$20,000 that contains the same rights and privileges as the previously issued new Bridge Notes, the due date of which was extended to October 15, 2013.

In May 2013, a majority of the new Bridge Note holders agreed to extend the maturity date of the new Bridge Notes to October 15, 2013 from April 15, 2013. In consideration of the new Bridge Note holders’ agreement to extend the maturity date, the amendment provides that the new Bridge Note holders have the option to convert the principal and interest under the new Bridge Note into the securities offered by the Company in a qualifying equity financing at the lower of (a) the same price paid for such securities by other investors investing in the financing or (b) \$0.25 per share (subject to adjustment in the event of a stock split, reclassification or the like). Prior to the amendment, the conversion option under the new Bridge Notes entitled the new Bridge Note holders to convert the principal and interest under the new Bridge Notes into the securities offered by the Company in a qualifying equity financing at the lower of (a) the same price paid for such securities by other investors investing in the financing or (b) \$0.50 per share (subject to adjustment in the event of a stock split, reclassification or the like).

In May 2013, the Company issued new Bridge Notes totaling \$187,500 that contain the same rights and privileges as the previously issued and amended new Bridge Notes.

In May 2013, the Company issued a new Bridge Note to its Chief Executive Officer totaling \$17,500 that contains the same rights and privileges as the previously issued and amended new Bridge Notes.

Acquisition

In May 2013, the Company completed its acquisition of the assets of Sequence, LLC as discussed in Note 9. The Company paid the remaining cash portion (\$104,370) of the purchase price prior to closing, and issued the 750,000 shares of its common stock at closing.

Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations.

This Quarterly Report on Form 10-Q contains “forward-looking statements” as defined in Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act, in connection with the Private Securities Litigation Reform Act of 1995 that involve risks and uncertainties, as well as assumptions that, if they never materialize or prove incorrect, could cause our results to differ materially and adversely from those expressed or implied by such forward-looking statements. Such forward-looking statements include statements about our expectations, beliefs or intentions regarding our potential product offerings, business, financial condition, results of operations, strategies or prospects. You can identify forward-looking statements by the fact that these statements do not relate strictly to historical or current matters. Rather, forward-looking statements relate to anticipated or expected events, activities, trends or results as of the date they are made and are often identified by the use of words such as “anticipate,” “believe,” “continue,” “could,” “estimate,” “expect,” “intend,” “may,” or “will,” and similar expressions or variations. Because forward-looking statements relate to matters that have not yet occurred, these statements are inherently subject to risks and uncertainties that could cause our actual results to differ materially from any future results expressed or implied by the forward-looking statements. Many factors could cause our actual activities or results to differ materially from the activities and results anticipated in forward-looking statements. These factors include those risks disclosed in this report, under the caption “Risk Factors” included in our 2012 annual report on Form 10-K filed with the Securities and Exchange Commission, or the SEC, on March 21, 2013 and in our subsequent filings with the SEC. Furthermore, such forward-looking statements speak only as of the date of this report. We undertake no obligation to update any forward-looking statements to reflect events or circumstances occurring after the date of such statements.

Overview

We are a provider of technology that enables major brands and enterprises to engage consumers via their mobile phone. Interactive electronic communications with consumers is a complex process involving communication networks and software. We remove this complexity through our suite of services and technologies thereby enabling brands, marketers, and content owners to communicate with their customers and consumers in general. From Presidential elections to major broadcast events, we are pioneers in the deployment of the mobile channel as the ultimate direct connection to the consumer.

Mobile phone users represent a large and captive audience. While televisions, radios, and even PCs are often shared by multiple consumers, mobile phones are personal devices representing a truly unique and individual address to the end user. We believe the future of digital media will be significantly influenced by mobile phones where a direct, personal conversation can be had with the world’s largest audience. The future of mobile includes banking, commerce, advertising, video, games and just about every other aspect of both on and offline life. Over 4 million consumers have been engaged via their mobile device thanks to our technology.

We believe that our mobile marketing and advertising campaign platform is among the most advanced in the industry as it allows real time interactive communications with consumers. We generate revenue from licensing our software to clients in our software as a service (SaaS) model, per-message and per-minute transactional fees, and customized professional services.

Our “C4” Mobile Marketing and Customer Relationship Management (CRM) platform is a hosted solution enabling our clients to develop, execute, and manage a variety of engagements to a consumer’s mobile phone. Short Messaging Service (SMS), Multi-Media Messaging (MMS), and Interactive Voice Response (IVR) interactions can all be facilitated via a set of Graphical User Interfaces (GUIs). Reporting and analytics capabilities are also available to our users through the C4 solution.

We believe mobile devices are emerging as an important interactive channel for brands to reach consumers since it is the only media platform that has access to the consumer virtually anytime and anywhere. Brands and advertising agencies are recognizing the unique benefits of the mobile channel and they are increasingly integrating mobile media within their overall advertising and marketing campaigns. Our objective is to become the industry leader in connecting brands and enterprises to consumers’ mobile phones.

Recent Events

Acquisition

In May 2013, we acquired the assets of Sequence, LLC (“Sequence”) related to a mobile customer loyalty application. The acquired assets include all application software, URL’s, websites, trademarks, brands, customers and customer lists. We assumed no liabilities of Sequence.

The purchase price consisted of: (1) \$300,000 in cash which was paid prior to closing; (2) 750,000 shares of our common stock which were issued at closing; and (3) twenty-four monthly earn-out payments consisting of 10% of the eligible monthly revenue subsequent to closing.

Bridge Note Financing

In 2012 and 2013, we issued additional 10% Senior Secured Convertible Bridge Notes in the aggregate of \$4,033,999. (See discussion of Bridge Note Financing in Liquidity and Capital Resources, and Note 5 in Notes to Consolidated Financial Statements).

As of March 31, 2013, the outstanding principal amount of convertible notes payable totaled \$4,521,378, and the due date was April 15, 2013. As of the date of this report, the outstanding principal amount of convertible notes payable totaled \$4,821,378, and the due date is October 15, 2013 as discussed below.

In May 2013, a majority of the note holders agreed to extend the due date to October 15, 2013. In consideration of the note holders’ agreement to extend the maturity date, the amendment provides that the holders have the option to convert the principal and interest under the notes into the securities offered by the Company in a qualifying equity financing at the lower of (a) the same price paid for such securities by other investors investing in the financing or (b) \$0.25 per share (subject to adjustment in the event of a stock split, reclassification or the like). Prior to the amendment, the conversion option under the notes entitled the note holders to convert the principal and interest under the notes into the securities offered by the Company in a qualifying equity financing at the lower of (a) the same price paid for such securities by other investors investing in the financing or (b) \$0.50 per share (subject to adjustment in the event of a stock split, reclassification or the like).

Results of Operations

Three Months March 31, 2013 Compared to Three Months ended March 31, 2012

Revenues

Revenues for the three months ended March 31, 2013 were \$1,027,993, an increase of \$14,787, or 1.5%, compared to the same period in 2012. The small net increase is primarily attributable to an increase of 49.5% in revenues from the operations of Boomtext, resulting from a substantial increase in subscriber-based licensing. This increase was offset by decreases of 35.5% and 61.0% in revenues derived from Mobivity (legacy acquisition) and CommerceTel business lines, respectively. The decrease in Mobivity (legacy acquisition) revenues were primarily due to the focus on small businesses within the Boomtext business line. CommerceTel revenues declined significantly due to the loss of several large-enterprise accounts that were not replaced with new sales in 2013.

Cost of Revenues

Cost of revenues for the three months ended March 31, 2013 was \$284,622, a decrease of \$83,417, or 23% compared to the same period in 2012. This decrease is primarily attributable to lower costs for messaging, messaging related fixed costs, and sales commission expenses. Messaging and related fixed costs have declined as we further assimilated the acquisitions of 2011, leveraged volume to obtain pricing discounts, and consolidated vendors. Sales commission expenses during the quarter ended March 31, 2013 decreased 34% as compared to the same period in 2012, due primarily to fewer closed sales of corporate accounts and a smaller inside sales staff.

Gross Profit

Gross profit for the three months ended March 31, 2013 was \$743,371, an increase of \$97,934, or 15%, compared to the same period in 2012. Gross profit as a percentage of revenue for the three months ended March 31, 2013 increased to 72% compared to 64% for the same period in 2012. The increase is primarily attributable to reduced cost of sales resulting from further assimilation of the acquisitions of 2011, leveraged volume to obtain pricing discounts, and consolidation of vendors.

General and Administrative

General and administrative expenses for the three months ended March 31, 2013 and 2012 were \$532,628 and \$917,582, respectively. Such expenses consist primarily of salaries and personnel related expenses, stock-based compensation expense, consulting costs and other expenses. The decrease of \$386,466 is primarily attributable to the following changes: decrease in stock-based compensation of \$267,067 because we are at the end of the expense recognition period for many of our options; a decrease in bad debt expense of \$59,156 due to favorable collection efforts and the establishment of an adequate reserve in prior periods; a decrease in payroll expense of \$52,921 related to lower headcount; and an increase in consulting expenses of \$27,993 related to lower employee headcount.

Sales and Marketing Expense

Sales and marketing expenses for the three months ended March 31, 2013 and 2012 were \$362,896 and \$347,251, respectively. Such expenses consist primarily of salaries and personnel related expenses, stock-based compensation expense, sales travel, consulting costs and other expenses. The increase of \$15,645 is primarily attributable to a one-time charge of \$20,400 related to reimbursement of client expenses.

Engineering, Research, and Development Expense

Engineering, research, and development expenses for the three months ended March 31, 2013 and 2012 were \$94,055 and \$160,213, respectively. Such expenses consist primarily of salaries and personnel related expenses, stock-based compensation expense, consulting costs and other expenses. The decrease of \$66,158 is primarily attributable to the following changes: decrease in payroll expense of \$29,355 due to lower headcount; and a decrease in stock-based compensation of \$19,196 because we are at the end of the expense recognition period for many of our options.

Depreciation and Amortization Expense

Depreciation and amortization expense for the three months ended March 31, 2013 and 2012 were \$33,813 and \$154,617, respectively. Such expenses consist of depreciation on our equipment and amortization of our intangible assets. The decrease of \$120,804 is primarily attributable to the lower amortizable base of our intangible assets in 2013 after the impairment write-offs that we recorded in 2012 and 2011.

Loss from Operations

Our loss from operations for the three months ended March 31, 2013 was \$280,021, a decrease of \$654,205, or 70%, compared to the same period in 2012. The decrease is a function of the increases and decreases discussed above.

Interest Expense

Interest expense for the three months ended March 31, 2013 and 2012 was \$1,447,359 and \$358,718, respectively. Interest expense consists of stated or implied interest expense on our notes payable, amortization of note discounts, and amortization of deferred financing costs.

Stated interest for the three months ended March 31, 2013 and 2012 was \$112,630 and \$45,675, respectively. The principal balance of our outstanding notes payable was higher in 2013 than in 2012, resulting in higher stated interest expense for the three months ended March 31, 2013.

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Amortization of note discounts recorded as interest expense for the three months ended March 31, 2013 and 2012 was \$1,334,729 and \$277,349, respectively. We issued additional notes payable in 2012 subsequent to March 31, 2012, resulting in increased VMCO and ASID discounts which are being amortized over future periods.

Amortization of deferred financing costs for the three months ended March 31, 2013 and 2012 was \$0- and \$35,154, respectively. We capitalized costs associated with the issuance of our notes, and amortize these costs over the term of the related notes.

Change in Fair Value of Derivative Liabilities

The change in fair value for derivative liabilities for the three months ended March 31, 2013 and 2012 was a loss of \$1,001,550 and \$460,487, respectively. The value of the derivative liabilities at any given date is based primarily on the value and volatility of our common stock, among other less significant factors. In periods when our stock price or volatility rises, we expect to record a loss in the change in fair value of the derivative liabilities. During the three months ended March 31, 2013, the volatility assumptions input into the Monte Carlo models were updated with the Company's own stock (as two years of comparable data was now available), as compared to the use of guideline companies during previous periods, which increases the reliability of the underlying data in the models, but which also increased the value of the derivatives which in turn caused the increased losses in the current period.

Gain on Adjustment in Contingent Consideration

The gain on adjustment in contingent consideration for the three months ended March 31, 2013 and 2012 was \$305,712 and \$60,651, respectively. These gains represent a reduction in the estimated earn-out payable on the BoomText acquisition at each period end.

Net Loss

The net losses for the three months ended March 31, 2013 and 2012 were \$2,423,215 and \$1,692,240, respectively. Factors affecting the change in net losses are discussed above.

Liquidity and Capital Resources

As of March 31, 2013, we had current assets of \$540,324, including \$44,182 in cash, and current liabilities of \$10,250,994, resulting in negative working capital of \$9,710,670.

The negative working capital balance at March 31, 2013 includes \$4,602,374 of net principal and interest on our Bridge Notes and \$4,194,373 of derivative liabilities related to the Bridge Note investments. If we are able to convince the holders to convert the principal and interest on the Bridge Notes into equity, and assuming all derivative liabilities are reduced to zero upon conversion of the Bridge Notes, our pro-forma negative working capital at March 31, 2013 would be \$913,923.

As of the date of this report, and assuming revenue projections for the second and third quarters of 2013 are attained, we believe we have working capital on hand and projected cash equivalents sufficient to fund our current level of operations through September 2013. Assuming our Bridge Notes and related accrued interest are converted into equity and our derivative liabilities are reduced to zero in October 2013, we believe that we require approximately \$500,000 of additional working capital in order to fund our current level of operations over the next 12 months. If we are unsuccessful in convincing our note holders to convert the principal and interest on the Bridge Notes into equity, our working capital requirements will increase commensurately.

While our priority is on generating additional working capital from operations through the sale of our services, we are also seeking to raise additional working capital through various financing sources, including the sale of our equity and debt securities and, subject to our commencement of profitable operations, the procurement of commercial debt financing. However, there can be no guarantees that such funds will be available on commercially reasonable terms, if at all. If such financing is not available on satisfactory terms, we will be unable to continue our business as desired and operating results will be adversely affected. In addition, any financing arrangement may have potentially adverse effects on us or our stockholders. Debt financing (if available and undertaken) will increase expenses, must be repaid regardless of operating results and may involve restrictions limiting our operating flexibility. If we issue equity securities to raise additional funds, the percentage ownership of our existing stockholders will be reduced and the new equity securities may have rights, preferences or privileges senior to those of the holders of our common stock.

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The report of our independent registered public accounting firm for the fiscal year ended December 31, 2012, states that due to our recurring operating losses from operations, negative cash flows from operations and dependence on additional financing to fund operations, there is substantial doubt about our ability to continue as a going concern.

In addition, all of our assets are currently subject to a first priority lien in favor of the holders of our outstanding convertible notes payable in the current aggregate principal amount of \$4,521,378. The notes are due on October 15, 2013, if we are unable to repay or refinance our obligations under those notes by October 15, 2013, the holders of the notes will have the right to foreclose on their security interests and seize our assets. To avoid such an event, we may be forced to seek bankruptcy protection, however a bankruptcy filing would, in all likelihood, materially adversely affect our ability to continue our current level of operations. In the event we are not able to refinance or repay the notes, but negotiate for a further extension of the maturity date of the notes, we may be required to pay significant extension fees in cash or shares of our equity securities or otherwise make other forms of concessions that may adversely impact the interests of our common stockholders.

Cash Flows from Operating Activities

Our operating activities resulted in net cash provided by operations of \$60,489 for the three months ended March 31, 2013 compared to net cash used by operations of \$328,347 for the same period in 2012.

The net cash used in operating activities for the three months ended March 31, 2013 reflects a net loss of \$2,423,215 offset by a reversal of bad debt expense of \$12,772, stock-based compensation of \$93,502, depreciation and amortization expense of \$33,813, gain on adjustment in contingent consideration of \$305,712, change (loss) in fair value of derivative liabilities of \$1,001,550, and amortization of note discounts of \$1,334,729. For the three months ended March 31, 2013, the net benefit of the non-cash items totaled \$2,145,110.

Increases and decreases in cash resulting from changes in operating assets and liabilities for the three months ended March 31, 2013 included an increase from accounts receivable of \$216,165, a decrease from other current assets of \$59,225, an increase from accounts payable of \$93,165, an increase from accrued interest of \$108,031, and other minor factors.

The net cash used in operating activities for the three months ended March 31, 2012 reflects a net loss of \$1,692,240 offset by bad debt expense of \$46,384, common stock issued for services of \$270,000, stock-based compensation of \$113,861, depreciation and amortization of \$154,617, gain on adjustment of contingent consideration of \$60,650, change (loss) in fair value of derivative liabilities of \$460,487, amortization of deferred financing costs of \$35,154, and amortization of note discounts of \$277,349. For the three months ended March 31, 2012, the net benefit of the non-cash items totaled \$1,297,202.

Increases and decreases in cash resulting from changes in operating assets and liabilities for the three months ended March 31, 2012 included a decrease from other current assets of \$324,119, an increase from accounts payable of 225,636, an increase from accrued compensation of \$106,077, an increase from other liabilities of \$67,303, and other minor factors.

Cash Flows from Investing Activities

Cash flows from investing activities for the three months ended March 31, 2013 consist of the acquisition deposit of \$195,630.

Cash flows from investing activities for the three months ended March 31, 2012 consist of equipment purchases of \$5,515.

Cash Flows from Financing Activities

Net cash provided by financing activities for the three months ended March 31, 2013 and 2012 was \$178,960 and \$333,706, respectively.

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During the three months ended March 31, 2013, we received proceeds of \$200,000 from the issuance of 10% Senior Secured Convertible Bridge Notes, and we paid \$21,040 on the 10% Senior Secured Convertible Bridge Notes.

During the three months ended March 31, 2012, we received proceeds of \$585,100 from the issuance of 10% Senior Secured Convertible Bridge Notes. We paid \$65,000 on the \$10% Senior Secured Bridge Notes, \$123,894 on the principal balance of the notes issued in the Mobivity and Boomtext acquisitions, and \$62,500 on the cash payment obligation resulting from the Txtstation acquisition.

Non Cash Financing Activities

During the three months ended March 31, 2013, non-cash investing and financing activities totaling \$2,013,938 consisting of \$133,725 of discounts recorded on our notes payable, \$15,406 in adjustments to our derivative liabilities due to note repayments, \$1,711,490 recorded as common stock payable for the earn out payment related to the Boomtext acquisition, and \$153,317 for the settlement of the working capital asset related to the Boomtext acquisition.

During the three months ended March 31, 2012, non-cash investing and financing activities totaling \$370,285 consisting of \$320,557 of discounts recorded on our notes payable and \$49,728 in adjustments to our derivative liabilities due to note repayments.

Critical Accounting Policies and Estimates

Refer to Note 2, "Summary of Significant Accounting Polices," in the accompanying notes to the condensed consolidated financial statements for a discussion of recent accounting pronouncements.

Off-Balance Sheet Arrangements

We have no off-balance sheet arrangements.

Item 3. Quantitative and Qualitative Disclosures about Market Risk.

As a smaller reporting company, as defined by section 10(f)(1) of Regulation S-K, we are not required to provide the information set forth in this item.

Item 4. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

As required by Rule 13a-15(b) promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), our management, with the participation of our chief executive officer and chief financial officer, evaluated the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Exchange Act Rule 13a-15(e), as of the end of the period covered by this report. Disclosure controls and procedures are controls and other procedures that are designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in the reports that we file under the Exchange Act is accumulated and communicated to our management, as appropriate to allow timely decisions regarding required disclosure. Based on this evaluation, our management, including our chief executive officer and chief financial officer, concluded that as of March 31, 2013 our disclosure controls and procedures were not effective due to existing material weaknesses in our internal control over financial reporting, as described below.

In connection with our evaluation of our internal control over financial reporting as of December 31, 2012, and included in our annual report on Form 10-K filed with the SEC on March 21, 2013, we determined that there were control deficiencies that constituted material weaknesses which are indicative of many small companies with small staff, including:

- (1) Inadequate segregation of duties and effective risk assessment;
- (2) Insufficient written policies and procedures for accounting and financial reporting with respect to the requirements and application of both generally accepted accounting principles in the United States and guidelines of the SEC; and
- (3) Inadequate closing processes to ensure all material misstatements are corrected in the financial statements, as evidenced by the fact that there were audit adjustments and restatements of our financial statements.

Changes in Internal Control

There were no changes in our internal control over financial reporting during the three months ended March 31, 2013 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Part II - Other Information

Item 5. Other Information

In May 2013, we acquired the assets of Sequence, LLC (“Sequence”) related to a mobile customer loyalty application. The acquired assets include all application software, URL’s, websites, trademarks, brands, customers and customer lists. We assumed no liabilities of Sequence.

The purchase price consisted of: (1) \$300,000 in cash which was paid prior to closing; (2) 750,000 shares of our common stock which were issued at closing; and (3) twenty-four monthly earn-out payments consisting of 10% of the eligible monthly revenue subsequent to closing.

Financial statements for Sequence are not required to be filed pursuant to Rule 8-04(b) of Regulation S-X (17 CFR 210.8-04(b)).

Item 6. Exhibits.

<u>Exhibit No.</u>	<u>Description</u>	<u>Method of Filing</u>
10.1	Form of Amendment to 10% Senior Secured Convertible Bridge Notes due October 15, 2013	Filed as Exhibit 99.1 to Current Report on Form 8-K filed on dated May 10, 2013
10.2	Asset Purchase Agreement by and among Mobivity Holdings Corp., Mobivity, Inc. and Sequence LLC	Filed electronically herewith
31.1	Certification by Chief Executive Officer pursuant to Section 302 of Sarbanes Oxley Act of 2002	Filed electronically herewith
31.2	Certification by Chief Financial Officer pursuant to Section 302 of Sarbanes Oxley Act of 2002	Filed electronically herewith
32.1	Certification Pursuant to 18 U.S.C. Section 1350	Filed electronically herewith
101.INS	XBRL Instance Document*	Filed electronically herewith
101.SCH	XBRL Taxonomy Schema Document*	Filed electronically herewith
101.CAL	XBRL Taxonomy Calculation Linkbase Document*	Filed electronically herewith
101.DEF	XBRL Taxonomy Definition Linkbase Document*	Filed electronically herewith
101.LAB	XBRL Taxonomy Label Linkbase Document*	Filed electronically herewith
101.PRE	XBRL Taxonomy Presentation Linkbase Document*	Filed electronically herewith

* In accordance with Rule 406T of Regulation S-T, the XBRL related information in Exhibit 101 to this Quarterly Report on Form 10-Q shall not be deemed to be “filed” for purposes of Section 18 of the Exchange Act, or otherwise subject to the liability of that section, and shall not be incorporated by reference into any registration statement or other document filed under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized

Mobivity Holdings Corp.

Date: May 15, 2013

By: /s/ Dennis Becker
Dennis Becker
Chief Executive Officer
(Principal Executive Officer)

Date: May 15, 2013

By: /s/ Timothy Schatz
Timothy Schatz
Chief Financial Officer
(Principal Accounting Officer)

ASSET PURCHASE AGREEMENT

by and among

MOBIVITY HOLDINGS CORP.,

MOBIVITY, INC.

and

SEQUENCE LLC

ASSET PURCHASE AGREEMENT

ASSET PURCHASE AGREEMENT, dated as of May __, 2013 (this "Agreement"), by and among Mobivity Holdings Corp., a Nevada corporation ("Parent"), Mobivity, Inc., a Nevada corporation ("Buyer"), and Sequence LLC, a Nevada limited liability company ("Seller").

WITNESSTH:

WHEREAS, Seller has heretofore conducted a business which provides a mobile customer loyalty platform and services, including under the name "Stampt" (the "Business"); and

WHEREAS, Buyer desires to purchase substantially all of the assets of the Business from Seller, and Seller desires to sell substantially all of the assets of the Business to Buyer, upon the terms and subject to the conditions hereinafter set forth.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Definitions.

(a) The following terms, as used herein, have the following meanings:

"Closing Date" means the date of the Closing.

"Earn-Out Amount" means, for any month during the Earn-Out Period, the product of (a) 10%, *multiplied by* (b) Buyer's revenue (net of all sales refunds, discounts and allowances) for such month to the extent actually collected during such month from customers of the Stampt Platform. Subject to the provisions of this Agreement, Buyer will determine the Earn-Out Amount on a basis consistent with Buyer's financial statements.

"Earn-Out Period" means the two-year period starting on the date of the Closing Date (if the Closing Date occurs on the first day of a month) or (otherwise) starting on the first day of the first full month following the Closing.

"End User Relationship" means all contracts and agreements (including website terms of service) between Seller and any registered user of the Stampt Application.

"Environmental Laws" means any and all federal, state, local and foreign statutes, laws (including common or case law), regulations, ordinances, rules, judgments, judicial decisions, orders, decrees, codes, plans, injunctions, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions, relating to the environment or to emissions, discharges or releases of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic, radioactive or hazardous substances or wastes into the environment, including (without limitation) ambient air, surface water, ground water, or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic, radioactive or hazardous substances or wastes or the clean-up or other remediation thereof.

"Intellectual Property Rights" means all rights of the following types, which may exist under the laws of any jurisdiction in the world: (i) rights associated with works of authorship, including exclusive exploitation rights, copyrights, moral rights, and mask works; (ii) trademark and trade name rights and similar rights; (iii) trade secret rights; (iv) patents and industrial property rights; (v) other proprietary rights in Technology of every kind and nature, whether arising by operation of law, by contract or license, or otherwise; and (vi) all registrations, applications, renewals, extensions, combinations, divisions, or reissues of, and applications for, any of the rights referred to in clauses (i) through (v) above.

“Knowledge”; Seller shall be deemed to have “Knowledge” of a particular fact or other matter if: (a) any member, director, officer or employee of Seller is actually aware of such fact or other matter; or (b) any of the persons identified in clause (a), after reasonable investigation, should have known such fact or other matter.

“Lien” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset.

“Merchant Relationship” means all contracts and agreements (including website terms of service) between Seller and merchant customer of the Stamp Platform.

“Parent Shares” means the Common Stock, par value \$0.001 per share, of Parent.

“Permitted Liens” means (i) Liens for taxes not yet due or being contested in good faith, (ii) Liens which do not materially detract from the value of any Acquired Asset as now used, or materially interfere with any present or intended use of any Acquired Asset, or (iii) Liens that will be released in connection with the Closing.

“Person” means an individual, a corporation, a limited liability company, a partnership, an association, a trust or other entity or organization, including a government or political subdivision or an agency or instrumentality.

“Personal Data” shall mean a natural person’s name, street address, telephone number, e-mail address, photograph, social security number, driver’s license number, passport number, or customer or account number, or any other piece of information that allows the identification of a natural person.

“Post-Closing Tax Period” means any Tax period (or portion thereof) ending after the Closing Date.

“Pre-Closing Tax Period” means any Tax period (or portion thereof) ending on or before the close of business on the Closing Date.

“Proceeding” means any action, arbitration, audit, hearing, investigation, litigation, or suit (whether civil, criminal, administrative, investigative or informal) commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Entity or arbitrator.

“Registered IP” means all Intellectual Property Rights that are registered or filed with or issued by any governmental authority, including all patents, registered copyrights, and registered trademarks and all applications for any of the foregoing.

“Seller Disclosure Schedule” means the disclosure schedules prepared by Seller and delivered to Buyer in connection with this Agreement.

“Seller Privacy Policy” shall mean each external or internal, past or present privacy policy of Seller (or any predecessor), including any policy relating to: (a) the privacy of users of any Seller Website or the Stamp Application; (b) the collection, storage, disclosure, and transfer of any User Data or Personal Data; and (c) any employee Personal Data.

“Seller Websites” shall mean each and every website operated by Seller (or any predecessor) as of or at any time prior to the date of this Agreement

“Stamp Application” mean Seller’s mobile customer loyalty application (in Android and iOS versions) made available under the name “Stamp”.

“Stamp Platform” mean Seller’s mobile customer loyalty platform and database, including (without limitation) the Stamp Application.

“Source Code” means the human-readable source code for all aspects of the computer programs included in the Stamp Platform, in the appropriate programming language, and stored on electronic storage media, and which shall contain sufficient narrative, including, without limitation, detailed information in respect of the objects used in the programs, and the objectives of each portion of the source code and how each portion of the source code integrates with each other portion of the source code, so as to enable a software programmer having average skill and ability in computer application programming to understand, maintain and modify the source code and perform such other functions as contemplated under this Agreement based solely on the programmer’s familiarity with the Stamp Platform and the source code.

“Taxes” means any net income, alternative or add-on minimum tax, gross income, gross receipts, sales, uses, ad valorem, franchise, capital, paid-up capital, profits, greenmail, license, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, environmental or windfall profit tax, custom, duty or other tax, governmental fee or other like assessment or charge of any kind whatsoever, together with any interest or any penalty, addition to tax or additional amount imposed by any governmental authority (domestic or foreign) responsible for the imposition of any such tax.

“Technology” means all products, product developments, apparatus, data, databases and data collections, diagrams, inventions (whether or not patentable), know-how, logos, marks, methods, processes, proprietary information, protocols, schematics, specifications, algorithms, APIs, software, software code (in source code and executable code), techniques, user interfaces, URLs, web sites, works of authorship, network configurations and architectures, documentation, and other forms of technology (whether or not embodied in any tangible form and including all tangible embodiments of the foregoing such as instruction manuals, laboratory notebooks, prototypes, samples, studies, and summaries).

“User Data” shall mean any Personal Data or other data or information collected by or on behalf of Seller from users of any Seller Website or the Stamp Application.

(b) Each of the following terms is defined in the Section set forth opposite such term:

Term	Section
Acquired Assets	2.01
Assumed Liabilities	2.03
Business	Recitals
Business IP Rights	2.01(g)
Buyer	Preamble
Cash Payment	2.06(a)(i)
Closing	2.07
Commission	3.25(a)
Commission Documents	4.05
Contracts	2.02(b)
Damages	7.02
Escrowed Shares	2.06(c)
Exchange Act	4.05
Excluded Assets	2.02
Excluded Contracts	2.02(c)
Excluded Liabilities	2.04
Form 10-K	4.05
Governmental Entity	3.03
Indemnified Party	7.03
Indemnifying Party	7.03
Material Adverse Effect	3.01
Parent	Preamble
Permits	3.12

Purchase Price	2.06
Securities Act	2.07
Seller	Preamble
Seller Balance Sheet	3.08
Seller Balance Sheet Date	3.06
Sequence Obligations	2.06(a)(i)
Stock Payment	2.06(a)(ii)
Transferred Employees	5.03(f)
WARN Act	3.16(b)

ARTICLE II

PURCHASE AND SALE

Section 2.01 Purchase and Sale. Upon the terms and subject to the conditions of this Agreement, Buyer agrees to purchase from Seller and Seller agrees to sell, transfer, assign and deliver, or cause to be sold, transferred, assigned and delivered, to Buyer at Closing, free and clear of all Liens, other than Permitted Liens, all of the assets, properties and business, other than the Excluded Assets, of every kind and description, wherever located, real, personal or mixed, tangible or intangible, owned, held or used in the conduct of the Business by Seller as the same shall exist on the Closing Date, including all of the assets shown on the Seller Balance Sheet and not disposed of in the ordinary course of business, and all assets of the Business thereafter acquired by Seller (the “Acquired Assets”), and including, without limitation, all right, title and interest of Seller in, to and under:

- (a) All personal property and interest therein, including equipment, furniture, office equipment, communications equipment in Seller’s possession;
- (b) All accounts and other receivables of Seller (whether or not amounts due have been invoiced to the customer)
- (c) All rights under all End User Relationships and all Merchant Relationships;
- (d) All rights, claims, credits, causes of action or rights of set-off against third parties relating to the Acquired Assets, including (without limitation) un-liquidated rights under manufacturers’ and vendors’ warranties;
- (e) All Technology and Intellectual Property Rights, including but not limited to: (i) the goodwill associated with any trademarks or service marks (including, without limitation, Stamp); (ii) rights to sue for past, present and future infringements or misappropriation of any Technology or Intellectual Property Rights, including the right to recover damages therefor, and the right to receive royalties, license fees and income from any Technology or Intellectual Property Rights; and (iii) any rights at common law directly arising from any Technology or Intellectual Property Rights and any licenses with respect to any Technology or Intellectual Property Rights (collectively the “Business IP Rights”), including, without limitation, those Business IP Rights listed on Sections 4.15(a) and 4.15(b) of the Seller Disclosure Schedule;
- (f) All social media presence related to the Business, including (without limitation) all associated passwords and other account management information in Seller’s possession;
- (g) All User Data;

(h) All transferable licenses, permits or other governmental authorizations affecting, or relating in any way to, the Business, including (without limitation) the items listed on Section 4.12 of the Seller Disclosure Schedule;

(i) All books, records, files and papers, whether in hard copy or computer format, used in the Business, including (without limitation) engineering information, sales and promotional literature, manuals and data, sales and purchase correspondence, lists of present and former suppliers, lists of present and former customers, and any information relating to Tax imposed on the Acquired Assets; and

(i) All goodwill associated with the Business or the Acquired Assets, together with the right to represent to third parties that Buyer is the successor to the Business.

Section 2.02 Excluded Assets. Buyer expressly understands and agrees that the following assets and properties of Seller (the “Excluded Assets”) will be excluded from the Acquired Assets:

(a) All cash on hand of Seller;

(b) All contracts, agreements, leases, licenses, commitments, sales and purchase orders and other instruments, including without limitation the items listed on Sections 3.11 and 3.16 of the Seller Disclosure Schedule (collectively, the “Contracts”), other than the End User Relationships and the Merchant Relationships;

(c) All minute books and ownership records of Seller; and

(d) Any Acquired Assets sold or otherwise disposed of in the ordinary course of the operation of the Business and not in violation of any provisions of this Agreement during the period from the date hereof until the Closing Date.

Section 2.03 Assumption of Liabilities. Upon the terms and subject to the conditions of this Agreement, Buyer agrees, effective at the time of the Closing to assume only the following liabilities and obligations of Seller (the “Assumed Liabilities”) :

(a) Obligations to be performed after the Closing under the End User Relationships and the Merchant Relationships , but specifically excluding any liability or obligation that arises out of or relates to any indemnification or warranty obligation thereunder or any default, breach, violation or failure to perform or comply with the terms thereof relating to periods prior to, or that occurred on or before, the Closing Date.

Section 2.04 Excluded Liabilities. Notwithstanding any provision in this Agreement or any other writing to the contrary, Buyer is assuming only the Assumed Liabilities and is not assuming any other liability or obligation of Seller of whatever nature whether presently in existence or arising hereafter. All such other liabilities and obligations shall be retained by and remain obligations and liabilities of Seller (all such liabilities and obligations not being assumed being herein referred to as the “Excluded Liabilities”), and Seller will pay all such Excluded Liabilities as they become due. Notwithstanding anything to the contrary in this Section 2.04, none of the following shall be Assumed Liabilities for the purposes of this Agreement:

(a) Any liability or obligation for Tax arising from or with respect to the Acquired Assets or the operations of the Business which is incurred in or attributable to the Pre-Closing Tax Period;

(b) Any liability or obligation for any accounts payable or other accruals arising on or prior to the Closing Date;

(c) Any liability or obligation under the Contracts (other than the End User Relationships and the Merchant Relationships), whether arising before or after the Closing Date;

(d) Any liability or obligation under any End User Relationship or any Merchant Relationships that arises after the Closing Date but that arises out of or relates to any default, breach, violation or failure to perform or comply with the terms thereof that occurred on or before the Closing Date;

(e) Any liability or obligation under any Excluded Contract whether arising before or after the Closing Date;

(f) Any liability or obligation, including indemnification and warranty obligations, arising out of or related to any products or services, manufactured, distributed or sold in connection with the Business on or prior to the Closing Date;

(g) Any liability or obligation relating to employees of, or independent contractors or consultants to, the Business for all periods ending on or prior to the Closing Date, including, without limitation, workers' compensation claims, disability and occupational diseases in each case without regard to whether such injuries, claims, conditions, events and occurrences are known or otherwise manifest on or prior to the Closing Date and any bonuses, vacation pay, or severance or retention obligations to such employees, whether or not accrued on Seller's books and records; and

(h) Any liability or obligation relating to any Excluded Asset.

Section 2.05 Assignment of Contracts and Rights. Anything in this Agreement to the contrary notwithstanding, this Agreement shall not constitute an agreement to assign any Acquired Asset or any claim or right or any benefit arising thereunder or resulting therefrom if an attempted assignment thereof, without the consent of a third party thereto, would constitute a breach or other contravention thereof to in any way adversely affect the rights of Buyer or Seller thereunder. Each of Seller and Buyer will use their commercially reasonable efforts (but without any payment of money by Seller or Buyer) to obtain the consent of the other parties to any such Acquired Asset or any claim or right or any benefit arising thereunder for the assignment thereof to Buyer as Buyer may request. If such consent is not obtained, or if an attempted assignment thereof would be ineffective or would adversely affect the rights of Seller thereunder so that Buyer would not in fact receive all such rights, each of Seller and Buyer will cooperate in a mutually agreeable arrangement under which Buyer would obtain the benefits and assume the obligations thereunder in accordance with this Agreement, including subcontracting, sublicensing, or subleasing to Buyer, or under which Seller would enforce for the benefit of Buyer, with Buyer assuming Seller's obligations, any and all rights of Seller against a third party thereto. In the event such benefits and obligations have not been provided by alternative arrangements satisfactory to Buyer and Seller, Seller and Buyer shall negotiate in good faith an adjustment in the consideration paid by Buyer for the Acquired Assets. Seller will promptly pay to Buyer when received all monies received by Seller under any Acquired Asset or any claim or right or any benefit arising thereunder that relates to a period after the Closing Date.

Section 2.06 Purchase Price; Escrow of Parent Shares.

(a) The purchase price for the Acquired Assets (the "Purchase Price") is:

(i) \$300,000 in cash (the "Cash Payment") payable exclusively to satisfy the liabilities of Seller listed on Section 2.06(a) of the Seller Disclosure Schedule (the "Sequence Obligations");

(ii) 750,000 authorized, but unissued, Parent Shares (the "Stock Payment"); and

(iii) Payments of the Earn-Out Amounts as provided in Section 2.08.

(b) The Purchase Price will be paid as provided in this Section 2.06 and in Sections 2.07 and 2.08.

(c) Fifty percent (50%) of the number of the Parent Shares constituting the Stock Payment (the “Escrowed Shares”) will be held in escrow by Buyer as security for Seller’s obligations under Section 7.02(a), and released in accordance with Section 3.09.

Section 2.07 Closing. The closing (the “Closing”) of the purchase and sale of the Acquired Assets and the assumption of the Assumed Liabilities hereunder shall take place at the offices of Buyer in Chandler, Arizona (or via electronic exchange of closing documentation in PDF or other mutually acceptable format) as soon as possible, but in no event later than three business days, after the satisfaction of the conditions set forth in Article VI, or at such other time or place as Buyer and Seller may agree. At the Closing,

(a) Buyer shall deliver the Cash Payment, less the Escrowed Cash, to the Persons identified on Section 2.06(a) of the Seller Disclosure Schedule in exchange for full and unconditional releases of all claims, obligations and liabilities (in form and substance satisfactory to Buyer) from such Persons;

(b) Buyer shall deliver to Seller a stock certificate representing 50% of the number of Parent Shares constituting the Stock Payment;

(c) Seller and Buyer shall enter into an Assignment and Assumption Agreement substantially in the form attached hereto as Exhibit A;

(d) Seller and each member of Seller shall execute and deliver a Non-Competition Agreement, in the form set forth as Exhibit B hereto, to Buyer; and

(e) Seller shall deliver to Buyer such deeds, bills of sale, assignment, certificates or title, documents and other instruments of transfer and conveyance as may reasonably be requested by Buyer, each in form and substance satisfactory to Buyer and its legal counsel and executed by Seller.

All Parent Shares to be issued hereunder shall be deemed “*restricted securities*” as defined in paragraph (a) of Rule 144 under the Securities Act of 1933, as amended (the “Securities Act”). All Parent Shares to be issued under the terms of this Agreement shall be issued pursuant to an exemption from the registration requirements of the Securities Act, under Section 4(2) of the Securities Act (and the rules and regulations promulgated thereunder). Certificates representing the Parent Shares to be issued hereunder shall bear a restrictive legend in substantially the following form:

The securities represented by this certificate have not been registered under the Securities Act of 1933, as amended, and may not be offered for sale, sold, or otherwise disposed of, except in compliance with the registration provisions of such Act or pursuant to an exemption from such registration provisions, the availability of which is to be established to the satisfaction of the Company.

Section 2.08. Earn-Out Payments. Within 30 days following the end of each month during the Earn-Out Period, Buyer will deliver to the Seller a calculation of the Earn-Out Amount payable in respect of such month and Buyer will deliver to Seller, as an adjustment to the Purchase Price, an amount in cash equal to the Earn-out Amount for such month.

Section 2.09 Escrowed Shares.

(a) Buyer will hold the Escrowed Shares, as security for Seller’s obligations under 7.02(a), until the first anniversary of the Closing (the “Escrow Termination Date”). Subject to the terms hereof, Seller will have all the rights of a stockholder with respect to the Escrowed Shares, including without limitation, the right to vote the Escrowed Shares and receive any cash dividends declared thereon.

(b) If at any time on or prior to the Escrow Termination Date, Buyer (i) believes in good faith that it or Parent is entitled to payment or that payment should be made to a third party pursuant to the terms of Section 7.02(a), and (ii) desires to make a claim for payment from the Escrowed Shares in connection therewith, then Buyer shall give written notice of such claim (a "Payment Notice") to Seller, stating in general terms the events or circumstances which are the basis for and amount (to the extent determined) of such claim. If Seller objects to such claim, Seller shall give written notice of such objection to Buyer within 15 days after the date of Seller's receipt of the Payment Notice served either by certified mail, express mail or personal service (the "Objection Period"), and shall state the basis for such objection in reasonable detail. If no objection to Buyer's claim is made by Seller within the Objection Period, the claim set forth in the Payment Notice shall be deemed approved and accepted by Seller and Buyer will be entitled to withdraw and apply Escrowed Shares in satisfaction of the claim. Any Escrowed Shares withdrawn and applied by Parent in satisfaction of a claim under this Section 2.09 will be valued at closing price of the Parent Shares on the day preceding the day they are withdrawn. If an objection to Buyer's claim is made by Seller within the Objection Period, Buyer may initiate an arbitration proceeding under Section 9.05 hereof to resolve the claim within 60 days following its receipt of Seller's written objection. If Buyer fails to initiate an arbitration proceeding within such 60-day period, it will be deemed to have abandoned the claim and released its rights with respect to the specific subject matter of such claim

(c) Buyer will hold and/or distribute any remaining Escrowed Shares (after deduction of any amounts withdrawn and applied by Buyer pursuant to Section 2.09(b)) in accordance with the following:

(i) If on the Escrow Termination Date there is any pending indemnification claim(s) asserted by Buyer or Parent under Article VII (a "Pending Claim"), including (without limitation) any claim which Seller has objected to and Buyer has not abandoned pursuant to Section 2.09(b), a number of Escrowed Shares reasonably anticipated by Buyer to be necessary to satisfy such claim will be retained by Buyer until such claim is resolved. On the Escrow Termination Date, Buyer will distribute the remaining Escrowed Shares less the amount reserved for Pending Claims, as applicable, to Seller.

(ii) If on the Escrow Termination Date there is no Pending Claim, Buyer will distribute the remaining Escrowed Shares to Seller.

(iii) Following the Escrow Termination Date, Pending Claims which are adjudicated or determined by arbitration in favor of Buyer or Parent, Buyer will be entitled to withdraw and apply Escrowed Shares in satisfaction of the claim. When no Pending Claims remain following the Escrow Termination Date, Buyer will distribute the remaining Escrowed Shares following resolution of the Pending Claims existing on the Escrow Termination Date to Seller.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Buyer that:

Section 3.01 Organization.

(a) Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and has all requisite power and authority to own, lease and operate its properties and to carry on its business as now being conducted. Seller is duly qualified or licensed and in good standing to do business in each jurisdiction in which the property owned, leased or operated by it or the nature of the business conducted by it makes such qualification or licensing necessary, except in such jurisdictions where the failure to be so duly qualified or licensed and in good standing would not in the aggregate have a material adverse effect on the business, assets, condition (financial or otherwise), results of operations or prospects (a "Material Adverse Effect") of the Business.

(b) Seller does not have any direct or indirect subsidiaries, own, directly or indirectly, any capital stock or other equity or ownership interests in any other Person or have any direct or indirect equity or ownership interest in any business or other Person.

(c) Section 3.01 of the Seller Disclosure Schedule provides an accurate and complete list of the members of, and their respective membership interests in, the Seller as of the date of this Agreement. None of the membership interests of Seller are subject to any repurchase option, forfeiture provision or restriction on transfer (other than restrictions on transfer imposed by virtue of applicable securities laws).

Section 3.02 Authorization. The execution, delivery and performance by Seller of this Agreement and the consummation by it of the transactions contemplated hereby are within its organizational powers and have been duly authorized by all necessary organizational action of Seller. This Agreement has been duly and validly executed and delivered by Seller and constitutes a valid and binding agreement of Seller, enforceable against it in accordance with its terms, except (a) as limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, and (b) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies.

Section 3.03 Governmental Authorization; Consents.

(a) The execution, delivery and performance by Seller of this Agreement require no action by or in respect of, or filing with, any governmental body, agency, official or authority (a "Governmental Entity").

(b) Except as set forth on Section 3.03 of the Seller Disclosure Schedule, no consent, approval, waiver or other action by any Person (other than any Governmental Entity referred to in (a) above) under any contract, agreement, indenture, lease, instrument, or other document to which Seller is a party or by which Seller is bound is required or necessary for the execution, delivery and performance of this Agreement by Seller or the consummation of the transactions contemplated hereby.

Section 3.04 Non-Contravention. The execution, delivery and performance by Seller of this Agreement do not and will not (a) contravene or conflict with the articles of organization or operating agreement of Seller, (b) contravene or conflict with or constitute a violation of any provision of any law, regulation, judgment, injunction, order or decree binding upon or applicable to Seller; (c) constitute a default under or give rise to any right of termination, cancellation or acceleration of any right or obligation of Seller or to a loss of any benefit to which Seller is entitled under any provision of any agreement, contract, or other instrument binding upon Seller or any license, franchise, permit or other similar authorization held by Seller; or (d) result in the creation or imposition of any Lien on any Acquired Asset.

Section 3.05 Sufficiency of and Title to Acquired Assets.

(a) The Acquired Assets constitute, and on the Closing Date will constitute, all or the assets or property used or held for use by Seller in the Business, except for the Excluded Assets.

(b) Upon consummation of the transaction contemplated hereby, Buyer will have acquired good and marketable title in and to, or a valid leasehold interest in, each of the Acquired Assets, free and clear of all Liens, except for Permitted Lien, and without incurring any penalty, fee, expense or other adverse consequence, including any increase in rentals, royalties, license or other fees or expenses imposed as a result of, or arising from, the consummation of the transactions contemplated hereby.

Section 3.06 Financial Statements.

(a) The unaudited financial statements of operations for the Business as of August 31, 2012 (the "Seller Balance Sheet Date") previously delivered to Buyer fairly present the financial position of the Business as of the date thereof and its results of operations for the periods then ended.

(b) Section 3.06 of the Seller Disclosure Schedule provides an accurate and complete breakdown and aging of all accounts receivable, notes receivable and other receivables of the Seller as of January 31, 2013. All existing accounts receivable of the Seller (including those accounts receivable have not yet been billed or invoiced): (i) represent valid obligations of customers of the Seller arising from bona fide transactions entered into in the ordinary course of business; and (ii) are current and will be collected in full, without any counterclaim or set off.

Section 3.07 Absence of Certain Changes. Except as set forth in Section 3.07 of the Seller Disclosure Schedule, since the Seller Balance Sheet Date, Seller has conducted the Business in the ordinary course consistent with past practices and has not:

(a) suffered any event that has had a Material Adverse Effect on the Business;

(b) sold, transferred, leased, licensed or otherwise disposed of any Acquired Assets or any rights thereto (other than in the ordinary course of business);

(c) declared, set aside or paid any dividend or other distribution with respect to any equity interests, or repurchased, redeemed or otherwise acquired any outstanding equity interests or other securities or other ownership interests, other than distributions for the payment of income taxes;

(d) incurred, assumed or guaranteed any indebtedness for borrowed money with respect to the Business;

(e) permitted or allowed any of the Acquired Assets to be subjected to any Lien, other than Permitted Liens;

(f) made any loan, advance or capital contributions to or investment in any Person;

(g) suffered any damage, destruction or other casualty loss (whether or not covered by insurance) affecting the Business or any Acquired Asset;

(h) allowed any insurance policy covering the Business or the Acquired Assets to lapse or be cancelled or reduced the coverage or increased the deductible under any such insurance policy;

(i) received any notice of termination of any Contract;

(j) transferred or granted any rights under, or entered into any Contract regarding any Technology or Intellectual Property Rights or similar rights (including, without limitation, any settlement regarding the breach or infringement or alleged breach or infringement thereof) or modified any existing rights with respect thereto;

(k) instituted, been made a party to, settled or agreed to settle, any Proceeding or suffered any material adverse determination in any Proceeding;

(l) made any transaction or commitment, or entered into any contract or agreement, relating to any Acquired Asset or the Business (including the acquisition or disposition of any assets) or relinquished any material contract or other right, other than transactions and commitments in the ordinary course consistent with past practices and those contemplated by this Agreement;

(m) changed any method of accounting or accounting practice with respect to the Business, except for any such change after the date hereof required by reason of a concurrent change in generally accepted accounting principles;

(n) (i) granted any severance or termination pay to any employee of the Business, (ii) entered into any employment, deferred compensation or other similar agreement (or any amendment to any such existing agreement) with any employee of the Business, (iii) increased benefits payable under an existing severance or termination pay policies or employment agreements or (iv) increased compensation, bonus or other benefits payable to employees of the Business; or

(o) entered into any Contract or made any other commitment to take any of the types of actions described in paragraphs (a) through (n) above.

Section 3.08 No Undisclosed Liabilities. There are no liabilities of the Business of any kind whatsoever, whether accrued, contingent, absolute, determined, determinable or otherwise and there is no existing condition, situation or set of circumstances which could reasonably be expected to result in such a liability, other than:

(a) Liabilities disclosed or provided for in the unaudited balance sheet of the Business as of August 31, 2012 (the "Seller Balance Sheet") previously delivered to Buyer; and

(b) Liabilities as and to the extent set forth on Section 3.08 of the Seller Disclosure Schedule.

Section 3.09 Properties. Seller has good and marketable title to, or in the case of leased property has valid leasehold interests in, all Acquired Assets (whether real or personal, tangible or intangible) reflected on the Seller Balance Sheet or acquired after the Seller Balance Sheet Date, except for properties and assets sold since the Seller Balance Sheet Date in the ordinary course of business consistent with past practices or as contemplated by this Agreement. No Acquired Asset is subject to any Lien, except Permitted Liens.

Section 3.10 Litigation. Section 3.10 of the Seller Disclosure Schedule lists all Proceedings currently or at any time within the last twenty-four months pending or to the Knowledge of Seller the Business or involving the Acquired Assets. None of the matters set forth on Section 3.10 of the Seller Disclosure Schedule has had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Business. None of the matters set forth on Section 3.10 of the Seller Disclosure Schedule affect the legality, validity or enforceability of this Agreement or the consummation of the transactions contemplated hereby. Except as set forth on Section 3.10 of the Seller Disclosure Schedule, no facts or circumstances exist which are reasonably likely to lead to the instigation of any other Proceeding against or affecting the Seller, the Business or the Acquired Assets.

Section 3.11 Material Contracts.

(a) Except for agreements, contracts, plans, leases, arrangements or commitments set forth on Section 3.11 of the Seller Disclosure Schedule and agreements with the customers set forth on Section 3.19 of the Seller Disclosure Schedule, with respect to the Business, Seller is not a party to or subject to:

- (i) Any agreement, contract or commitment related to an End User Relationship or a Merchant Relationship;
- (ii) Any lease providing for annual rentals of \$1,000 or more;
- (iii) Any contract for the purchase of materials, supplies, goods, services, equipment or other assets providing for annual payments of \$1,000 or more;
- (iv) Any sales, distribution or other similar agreement providing for the sale of materials, supplies, goods, services, equipment or other assets;
- (v) Any partnership, joint venture or other similar contract or arrangement;
- (vi) Any contract relating to indebtedness for borrowed money or the deferred purchase price of property (whether incurred, assumed, guaranteed or secured by any asset), except contracts relating to indebtedness incurred in the ordinary course of business in an amount not exceeding \$1,000;
- (vii) Any license agreement, franchise agreement or agreement in respect of similar rights granted to or held by Seller;
- (viii) Any agency, dealer, reseller, sales representative, affiliate or similar agreement;
- (ix) Any agreement, contract or commitment that substantially limits the freedom of Seller to compete in any line of business or with any Person or in any area or to own, operate, sell, transfer, pledge or otherwise dispose of or encumber any Acquired Asset or which would so limit the freedom of Buyer after the Closing Date;
- (x) Any agreement, contract or commitment which is or relates to an agreement with or for the benefit of any affiliate of Seller; or
- (xi) Any other contract or commitment not made in the ordinary course of business that is material to the Business.

(b) Seller has provided or otherwise made available to Buyer complete and accurate copies of all standard form agreements used by the Seller that relate to the Acquired Assets, including all customer agreements, development agreements, distributor or reseller agreements, employee agreements containing intellectual property assignments or licenses or confidentiality provisions, consulting or independent contractor agreements containing intellectual property assignments or licenses or confidentiality provisions, and confidentiality or nondisclosure agreements. Section 3.11 of the Seller Disclosure Schedule sets forth a complete and accurate list of all Contracts entered into by the Seller that include deviations from such standard form agreements.

(c) Each agreement, contract, plan, lease, arrangement and commitment required to be disclosed on Section 3.11 of the Seller Disclosure Schedule is a valid and binding agreement of Seller and is in full force and effect, and neither Seller nor any other party thereto is in default in any material respect under the terms of any such agreement, contract, plan, lease, arrangement or commitment, nor to the Knowledge of Seller, has any event or circumstance occurred that, with notice or lapse of time or both, would constitute any event of default thereunder. Except as set forth on Section 3.11 of the Seller Disclosure Schedule, Seller has performed all obligations required to be performed by it under each Contract prior to the Closing.

(d) Except as set forth on Section 3.11 of the Seller Disclosure Schedule, (i) the consummation of the transactions contemplated hereby will not afford any other party the right to terminate, modify, or exercise any right to increased or accelerated performance under, any Contract and (ii) none of the Contracts (A) except as set forth on Section 3.03 of the Seller Disclosure Schedule, contains a provision preventing, prohibiting or requiring any consent or notice in connection with the transfer or assignment of such Contract to Buyer or (B) contains a “change of control” or similar provision triggered by the consummation of the transactions contemplated hereby.

Section 3.12 Licenses and Permits. Section 3.12 of the Seller Disclosure Schedule correctly describes each license, franchise, permit or other similar authorization affecting, or relating in any way to, the Business (the “Permits”), together with the name of the Governmental Entity issuing such Permits. Except as set forth on Section 3.12 of the Seller Disclosure Schedule, such Permits are valid and in full force and effect and are transferable by Seller, and none of the Permits will be terminated or impaired or become terminable as a result of the transactions contemplated hereby. Upon consummation of such transactions, Buyer will have all right, title and interest to all such Permits.

Section 3.13 Insurance. Section 3.13 of the Seller Disclosure Schedule sets forth a list of all insurance policies and fidelity bonds covering the Acquired Assets, the business and operations of the Business and its employees. There is no claim pending under any of such policies or bonds as to which coverage has been questioned, denied or disputed by the underwriters of such policies or bonds. All premiums payable under all such policies and bonds have been paid and Seller is otherwise in full compliance with the terms and conditions of all such policies and bonds. Such policies of insurance and bonds will remain in full force and effect through the Closing Date. Seller does not know of any threatened termination of, or premium increase with respect to, any of such policies or bonds.

Section 3.14 Compliance with Laws. Seller has not violated and is not in violation of, nor to Seller’s knowledge, is Seller under investigation with respect to or has Seller been threatened to be charged with or given notice of any violation of, any law, rule, ordinance or regulation, or judgment, order or decree entered by any court, arbitrator or Governmental Entity applicable to the Acquired Assets or the conduct of the Business.

Section 3.15 Intellectual Property.

(a) Section 3.15(a) of the Seller Disclosure Schedule contains a complete and accurate list of all Registered IP owned by or filed in the name of Seller and any other Intellectual Property Rights and Technology that are material to the Business.

(b) Section 3.15(b) of the Seller Disclosure Schedule contains a complete and accurate list of all Intellectual Property Rights or Technology licensed to Seller (other than non-customized, executable code, internal use software licenses for software that is not incorporated into, or used directly in the development, manufacturing, or distribution of, the Seller’s products or services and that is generally available on standard terms for less than \$1,000 and used in the Business), and the corresponding Contracts in which such Intellectual Property Rights or Technology are licensed to the Seller.

(c) Section 3.15(c) of the Seller Disclosure Schedule contains a complete and accurate list of all Contracts in which any third party has been granted any license under, or otherwise transferred or conveyed any right or interest in, any Business IP Rights (other than non-exclusive, internal use licenses granted to end user customers in the ordinary course of business pursuant to the Seller’s standard form of customer agreement provided to Buyer).

(d) All products, information, and services included in the Acquired Assets, and the Business IP Rights, have never infringed, misappropriated, or otherwise violated the Intellectual Property Rights of any third party. There are no pending or, to Seller's knowledge, threatened infringement, misappropriation or similar claims or Proceedings against Seller or against any other Person who would be entitled to indemnification by Seller for any such claim or Proceeding. Neither Seller nor any direct or indirect subsidiary of Seller has ever received any notice or other communication (in writing or otherwise) of any actual, alleged, possible, potential or suspected infringement or misappropriation of any third party's Intellectual Property Rights by Seller or any direct or indirect subsidiary of Seller or by any product or service developed, manufactured, distributed, provided or sold by or on behalf of Seller or any direct or indirect subsidiary of Seller.

(e) To Seller's knowledge, no third party has infringed, misappropriated, or otherwise violated, and no third party is currently infringing, misappropriating, or otherwise violating, any Business IP Rights.

(f) Seller exclusively owns, and after the Closing, Buyer will exclusively own, free and clear of all Liens, all right, title, interest in and to the Business IP Rights, and the Business IP Rights include all Intellectual Property Rights and Technology needed to operate the Business as currently conducted.

(g) Neither the execution, delivery, or performance of this Agreement nor the consummation of the transactions contemplated by this Agreement will result in, or give any other Person the right or option to cause or declare: (i) a loss of, or Lien or restriction on, any of the Business IP Rights; (ii) the release or delivery of any of the Business IP Rights to any other Person; or (iii) the grant, assignment or transfer to any other Person of any license or other right or interest under, to or in any of the Business IP Rights.

(h) None of the processes and formulae, research and development results and other know-how relating to the Business, the value of which is contingent upon maintenance of the confidentiality thereof, has been disclosed by Seller or any affiliate of Seller to any Person other than employees, representatives and agents of Seller.

(i) None of the software (including firmware and other software embedded in hardware devices) owned, developed (or currently being developed), used, marketed, distributed, licensed or sold by Seller or included in the Acquired Assets (collectively, the "Seller Software") contains any "back door," "drop dead device," "time bomb," "Trojan horse," "virus," or "worm" (as such terms are commonly understood in the software industry) or any other code designed or intended to have, or capable of performing, any of the following functions: (i) disrupting, disabling, harming or otherwise impeding in any manner the operation of, or providing unauthorized access to, a computer system or network or other device on which such code is stored or installed; or (ii) damaging or destroying any data or file without the user's consent.

(j) The source code for all Seller Software contains reasonably clear and accurate annotations and programmer's comments, and otherwise has been documented in a professional manner that is both: (i) consistent with customary code annotation conventions and practices in the software industry; and (ii) sufficient to independently enable a programmer of reasonable skill and competence to understand, analyze, and interpret program logic, correct errors and improve, enhance, modify and support such Seller Software. No source code for any Seller Software has been delivered, licensed or made available by Seller to any escrow agent or other Person who is not, as of the date of this Agreement, an employee or independent contractor of Seller. Seller has any duty or obligation (whether present, contingent or otherwise) to deliver, license or make available the source code for any Seller Software to any escrow agent or other Person. No event has occurred, and no circumstance or condition currently exists, that (with or without notice or lapse of time) will, or could reasonably be expected to, result in the delivery, license or disclosure of the source code for any Seller Software to any other Person.

(k) No Seller Software contains, is derived from, or is distributed with or developed using any "open source" code in a manner that: (i) imposes or could impose a requirement or condition that any Seller Software or part thereof: (A) be disclosed or distributed in source code form; (B) be licensed for the purpose of making modifications or derivative works; or (C) be redistributable at no charge; or (ii) imposes or purports to impose a requirement or condition that Seller grant any license, covenant not to sue or other right under or with respect to any Business IP Rights.

(l) Section 3.15(l) of the Seller Disclosure Schedule contains each Seller Privacy Policy in effect at any time and identifies, with respect to each Seller Privacy Policy: (i) the period of time during which such privacy policy was or has been in effect; (ii) whether the terms of a later Seller Privacy Policy apply to the data or information collected under such privacy policy; and (iii) if applicable, the mechanism (such as opt-in, opt-out or notice only) used to apply a later Seller Privacy Policy to data or information previously collected under such privacy policy. Seller has complied at all times with all of the Seller Privacy Policies and with all applicable laws, rules, and regulations pertaining to privacy, User Data or Personal Data (including the Children's Online Privacy Protection Act of 1998, 15 U.S.C. § 6501 et seq.). Seller has collected, stored, processed, transferred and deleted user data and Personal Data using commercially reasonable technical means designed to ensure the security and integrity of the user data and personal data. Neither the execution, delivery or performance of this Agreement or any of the other agreements referred to in this Agreement nor the consummation of any of the other transactions contemplated by this Agreement or any such other agreements, nor Buyer's possession or use of the user data or any data or information in the Seller Databases as permitted by or in accordance with the applicable Seller Privacy Policy, will result in any violation of any Seller Privacy Policy or any requirement of applicable law, rules or regulations pertaining to privacy, user data or personal data in effect as of the Closing.

(m) Section 3.15(m) of the Seller Disclosure Schedule identifies and describes each distinct electronic or other database containing (in whole or in part) Personal Data maintained by or for Seller at any time (the "Seller Databases"), the types of personal data in each such database, and the security policies that have been adopted and maintained with respect to each such database. There has been no unauthorized or illegal use of or access to any user data or personal data or any of the data or information in any of the Seller Databases. Seller is in compliance with all applicable laws, rules, ordinances and regulations pertaining to data security.

(n) None of the Seller Software (including the Stamp Platform and the Stamp Application), or the other software incorporated in any of the foregoing (i) contains any bug, defect or error that materially and adversely affects the use, functionality or performance thereof or (ii) fails to comply with any applicable warranty or other contractual commitment relating to the use, functionality or performance thereof. Seller has delivered to Buyer a complete and accurate list of all material bugs, defects and errors in the current version of the Seller Software.

(o) Section 3.15(o) of the Seller Disclosure Schedule identifies and describes each social media presence maintained by or for Seller at any time, and the passwords and other account management information with respect to each such social media presence.

Section 3.16 Employees.

(a) Section 3.16 of the Seller Disclosure Schedule sets forth a true and complete list of the names, titles, annual salaries (or wage rates for non-salaried employees) and other compensation of, and any and all amounts payable to, all current and former employees of, and consultants to, the Business. None of such employees or consultants has indicated to Seller that he intends to resign or retire as a result of the transactions contemplated by this Agreement. No third party has asserted any claim in writing against Seller that either the continued employment by, or association with, Seller of any of the present officers or employees of, or consultants to, Seller contravenes any agreements or laws applicable to unfair competition, trade secrets or proprietary information. Except as set forth on Section 3.16 of the Seller Disclosure Schedule, Seller has no employment contract, agreement regarding proprietary information, non-competition agreement, non-solicitation agreement, confidentiality agreement, or any other similar contract or restrictive covenant, relating to the right of any employee or consultant of the Business.

(b) In the conduct of the Business, Seller is in compliance in all material respects with all federal, state or other applicable laws, respecting employment and employment practices (including, without limitation, all laws pertaining to terms and conditions of employment, wages and hours, employee classification, discrimination, affirmative action, civil rights, the Worker Adjustment and Retraining Notification Act and similar state laws (collectively, the "WARN Act"), occupational safety and health, collective bargaining, immigration, workers' compensation and the collection, payment and withholding of Taxes) (except for violations or failures to comply which are not reasonably likely to result in penalties in excess of \$5,000 in the aggregate), and has not received notice of, and is not engaged in, any unfair labor practice. Seller has not incurred any liability or obligation under the WARN Act in connection with the conduct of the Business that remains unsatisfied.

(c) No unfair labor practice complaint arising out of or relating to the conduct of the Business is pending before the National Labor Relations Board.

(d) There is no labor strike, dispute, slowdown or stoppage involving any employees of the Business actually pending against or affecting the Seller.

(e) Except as set forth in Section 3.16 of the Seller Disclosure Schedule, there are not, and in the past three years have not been, any material claims, grievances or arbitration proceedings, workers' compensation proceedings, labor disputes (including charges of violations of any federal, state or local laws or regulations relating to current or former employees (including retirees) or current or former applicants for employment), governmental investigations, administrative proceedings or other Proceedings of any kind pending or, to Seller's knowledge, threatened against Seller, in each case that relate to the conduct of the Business, the Business's employees or employment practices, or operations as they pertain to conditions of employment; nor is Seller subject to any order or decree arising from any such matter.

(f) No collective bargaining agreement covering any employee of the Business is currently in existence or is being negotiated by Seller. As of the date of this Agreement, no labor organization has been certified or recognized as the representative of any employees of Seller or, to Seller's knowledge, is actively seeking such certification or recognition.

(g) Seller's Contracts, if any, with temporary personnel agencies providing personnel to perform services for the Business represent bona-fide, arm's-length agreements and the personnel provided by such agencies to perform services for the Business are not the Seller's employees for purposes of any federal, state or local laws, including laws pertaining to tax withholding, provision of benefits or union representation. To the extent any Person performing services for the Business has not properly been treated by Seller as an employee in the past, any amount due such person if such person had been considered and treated as an employee of Seller shall be an Excluded Liability.

(h) Except as set forth in Section 3.16 of the Seller Disclosure Schedule, at the Closing, all salaries, wages, vacation pay, bonuses, commissions and other compensation due from Seller will have been paid.

(i) Except as set forth in Section 3.16 of the Seller Disclosure Schedule, Seller does not have, or contribute to, any pension, profit-sharing, option, other incentive plan, or any other type of Employee Benefit Plan (as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended), or have any obligation to or customary arrangement with employees for bonuses, incentive compensation, vacations, severance pay, sick pay, sick leave, insurance, service award, relocation, disability, tuition refund, or other benefits, whether oral or written. Neither Seller nor any of its affiliates has incurred with respect to any Employee Benefit Plan any liability to the Pension Benefit Guaranty Corporation or other liability.

(j) No employee of Seller will become entitled to any retirement, severance or similar benefit or enhanced benefit solely as a result of the transactions contemplated hereby.

Section 3.17 Environmental Compliance. Seller has obtained all material approvals, authorization, certificates, consents, licenses, orders and permits or other similar authorizations of all governmental authorities, or from any other person, that are required under any Environmental Laws in connection with the Business. There are no past or present events, conditions, circumstances, incidents, actions or omissions relating to or in any way affecting the Business or any Acquired Asset that violate or may violate any Environmental Law after the Closing Date or that may give rise to any environmental liability (i) under any Environmental Law, or (ii) based on or related to the manufacture, processing, distribution, use, treatment, storage (including without limitation underground storage tanks), disposal, transport or handling, or the emission, discharge, release or threatened release of any hazardous substance.

Section 3.18 Tax Matters. Except as set forth in Section 3.18 of the Seller Disclosure Schedule:

(a) Seller has timely paid all Taxes, and all interest and penalties due thereon and payable by it for the Pre-Closing Tax Period which will have been required to be paid on or prior to the Closing Date, the non-payment of which would result in a Lien on any Acquired Asset, would otherwise adversely affect the Business or would result in Buyer becoming liable or responsible therefor.

(b) Seller has established adequate reserves for the payment of, and will timely pay all Tax liabilities, assessments, interest and penalties which arise from or with respect to the Acquired Assets or the operation of the Business and are incurred in or attributable to the Pre-Closing Tax Period, the non-payment of which would result in a Lien on any Acquired Asset, would otherwise adversely affect the Business or would result in Buyer becoming liable or responsible therefor.

Section 3.19 Customers. Section 3.19 of the Seller Disclosure Schedule lists all active customers of the Business and, for each such customer, lists all agreements or other arrangements between Seller and the customers (including all End User Relationships and all Merchant Relationships). Seller has not received any written, oral or other notice (including by email, text message or otherwise) that any customer of the Business expects or intends to cease doing business with Seller, reduce the amount of business such customer does with Seller or modify its relationship with Seller in a manner adverse to Seller.

Section 3.20 Books and Records. The records and documents of Seller accurately reflect in all material respects the information relating to the Business, the location of the Acquired Assets, and the nature of all transactions giving rise to the obligations or accounts receivable of the Business.

Section 3.21 Finders' Fees. There is no investment banker, broker, finder or other intermediary that has been retained by or is authorized to act on behalf of Seller who might be entitled to any fee or commission from Buyer or Parent or any of their respective affiliates upon consummation of the transactions contemplated by this Agreement.

Section 3.22 Absence of Certain Relationships. None of (a) Seller, (b) any executive officer of Seller, or (c) any member of the immediate family of the Persons listed in (a) through (b) of this sentence, has any financial or employment interest in any subcontractor, supplier, or customer of the Business (other than holdings in publicly held companies of less than 2% of the outstanding capital stock of any such publicly held company).

Section 3.23 No Questionable Payments. Neither Seller nor any member, manager, director, officer, agent, employee, or other person associated with, or acting on behalf of, Seller has directly or indirectly: used any corporate funds for unlawful contributions, gifts, entertainment, or other unlawful expenses relating to political activity; made any unlawful payment to foreign or domestic government officials or employees or to foreign or domestic political parties or campaigns from corporate funds; violated any provision of the Foreign Corrupt Practices Act of 1977, as amended; or made any bribe, rebate, payoff, influence payment, kickback, or other unlawful payment.

Section 3.24 Completeness of Disclosure. No representation or warranty by Seller in this Agreement contains or, and at the Closing Date will contain, an untrue statement of material fact or omits or, at the Closing Date, will omit to state a material fact required to be stated therein or necessary to make the statements made not misleading.

Section 3.25 Investment Representations and Covenants.

(a) Seller is acquiring the Parent Shares for investment for its own account and not with a view to distribution or resale thereof, and it will not sell or otherwise transfer the Parent Shares except in accordance with the provisions of the Securities Act and the rules and regulations promulgated under the Securities Act by the Securities and Exchange Commission (the "Commission") and all applicable provisions of state securities laws and regulations. Seller further acknowledges that it understands the foregoing to mean that it will not sell or otherwise transfer any Parent Shares unless such securities are registered under the Securities Act and any other applicable federal or state securities laws, or it obtains an opinion of counsel satisfactory to Parent (both as to the issuer of the opinion and the form and substance thereof) that the Parent Shares may be transferred in reliance on an applicable exemption from the registration requirements of such laws.

(b) Seller understands that acquisition of the Parent Shares is a speculative investment involving a high degree of risk of the loss, and it is qualified by knowledge and experience to evaluate investments of this type. It further acknowledges that it has carefully considered the potential risks relating to an investment in the Parent Shares.

(c) Seller is able to bear the economic risk of losing its entire investment in the Parent Shares.

(d) Seller understands and acknowledges that the Parent Shares have not been registered under the Securities Act, or the securities laws of any state and, as a result thereof, are subject to substantial restrictions on transfer. It further acknowledges that the certificate or certificates representing the Parent Shares shall bear a legend in substantially the form set forth in Section 2.07 hereof.

(e) Seller has made an independent examination and investigation of an investment in the Parent Shares and Parent and has depended on the advice of its legal and financial advisors and agrees that neither Parent nor Buyer will be responsible in anyway whatsoever for Seller's decision to invest in the Parent Shares and Parent, except as a result of their breach of this Agreement. Seller has been afforded access to all material information (including, without limitation, Parent's Form 10-K for the fiscal year ended December 31, 2011 filed with the Commission on April 16, 2012, Parent's Form 10-Q for the fiscal quarter ended September 30, 2012 filed with the Commission on November 14, 2012, and all other reports, schedules, forms, statements and other documents filed by Parent with the Commission) that it has requested relevant to its decision to acquire the Parent Shares and to ask questions of Parent's management. Seller further acknowledges that, except as set forth herein, neither Parent nor Buyer nor anyone acting on behalf of Parent or Buyer has made any representations or warranties (written or oral) to Seller (or any person acting on their behalf) which have induced, persuaded, or stimulated it to acquire the Parent Shares, including (without limitation) as to the future price or value of the Parent Shares, except as provided in this Agreement.

(f) Either alone, or together with its investment advisor(s), Seller has the knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of the prospective investment in the Parent Shares, and Seller is and will be able to bear the economic risk of the investment in such Parent Shares.

(g) Seller understands and agrees not to engage in any hedging transactions involving any of the Parent Shares unless such transactions are in compliance with the provisions of the Securities Act and in each case only in accordance with applicable state securities laws.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF

BUYER

Buyer hereby represents and warrants to Seller that:

Section 4.01 Organization. Each of Parent and Buyer is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and has all requisite power and authority to own, lease and operate its properties and to carry on its business as now being conducted, except in such jurisdictions where the failure to be so duly qualified or licensed and in good standing would not in the aggregate have a Material Adverse Effect on Parent and its subsidiaries, taken as a whole.

Section 4.02 Corporate Authorization. The execution, delivery and performance by each of Parent and Buyer of this Agreement and the consummation by each of Parent and Buyer of the transactions contemplated hereby will be within their respective corporate powers and will have been duly authorized by all necessary corporate action of each of Parent and Buyer. This Agreement has been duly and validly executed and delivered by each of Parent and Buyer and constitutes a valid and binding agreement of each of Parent and Buyer, enforceable against them in accordance with its terms, except (a) as limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, and (b) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies.

Section 4.03 Governmental Authorization; Consents.

(a) The execution, delivery and performance by Parent and Buyer of this Agreement require no action by or in respect of, or filing with, any Governmental Entity.

(b) Except as set forth on Schedule 4.03(b) attached hereto, no consent, approval, waiver or other action by an Person under any contract, agreement, indenture, lease, instrument, or other document to which Parent or Buyer is a party or by which it is bound is required or necessary for the execution, delivery and performance of this Agreement by Parent or Buyer or the consummation of the transactions contemplated hereby.

Section 4.04 Non-Contravention. The execution, delivery and performance by Parent and Buyer of this Agreement do not and will not (a) contravene or conflict with the articles of incorporation or bylaws of Parent or Buyer, (b) contravene or conflict with or constitute a violation of any provision of any law, regulation, judgment, injunction, order or decree binding upon or applicable to Parent or Buyer; or (c) constitute a default under or give rise to any right of termination, cancellation or acceleration of any right or obligation of Parent or Buyer or to a loss of any benefit to which Parent or Buyer is entitled under any provision of any agreement, contract, or other instrument binding upon Parent or Buyer or any license, franchise, permit or other similar authorization held by Parent or Buyer.

Section 4.05 Litigation. There is no Proceeding pending against, or to the knowledge of Parent or Buyer, threatened against or affecting, Parent or Buyer before any court or arbitrator or any Governmental Entity which in any manner challenges or seeks to prevent, enjoin, alter or materially delay the transactions contemplated hereby.

Section 4.06 Finders' Fees. There is no investment banker, broker, finder or other intermediary which has been retained by or is authorized to act on behalf of Parent or Buyer who might be entitled to any fee or commission from Seller or any of its affiliates upon consummation of the transactions contemplated by this Agreement.

Section 4.07 Validity of Parent Shares to be Issued. The Parent Shares to be issued pursuant to the terms of this Agreement are validly authorized and, when such Parent Shares have been duly delivered pursuant to the terms of this Agreement, will not have been issued in violation of any preemptive or similar right of any stockholder or other Person. When the Parent Shares have been duly delivered pursuant to the terms of this Agreement, such Parent Shares will be validly issued, fully paid, and nonassessable.

ARTICLE V

COVENANTS

Section 5.01 Covenants of Seller. Seller agree that:

(a) **No Inconsistent Actions.** During the period from the date of this Agreement and continuing until the Closing Date, Seller will not (i) take or agree or commit to take any action that would make any representation and warranty of Seller inaccurate in any respect at, or as of any time prior to, the Closing Date, or (ii) omit or agree or commit to omit to take any action necessary to prevent any such representation or warranty from being inaccurate in any respect at any such time.

(b) **Confidentiality.** Prior to the Closing Date and after any termination of this Agreement, Seller and its affiliates will hold, and will use commercially reasonable efforts to cause their respective officers, directors, employees, accountants, counsel, consultants, advisors and agents to hold, in confidence, unless compelled to disclose by judicial or administrative process or by other requirements of law, all confidential documents and information concerning Parent or Buyer furnished to Seller or its affiliates in connection with the transaction contemplated by this Agreement, except to the extent that such information can be shown to have been (i) previously known on a nonconfidential basis by Seller, (ii) in the public domain through no fault of Seller or (iii) later lawfully acquired by Seller from sources other than Parent and Buyer; provided that Seller may disclose such information to its officers, directors, employees, accountants, counsel, consultants, advisors and agents in connection with the transactions contemplated by this Agreement so long as such Persons are informed by Seller of the confidential nature of such information and are directed by Seller to treat such information confidentially. The obligation of Seller and its affiliates to hold such information in confidence shall be satisfied if they exercise the same care with respect to such information as they would take to preserve the confidentiality of their own similar information. If this Agreement is terminated, Seller and its affiliates will, and will use commercially reasonable efforts to cause their respective officers, directors, employees, accountants, counsel, consultants, advisors and agents to, destroy or deliver to Buyer, upon request, all documents and other materials, and all copies thereof, obtained by Seller and its affiliates or on their behalf from Parent or Buyer in connection with this Agreement that are subject to such confidence.

(c) **Access to Information.** Upon reasonable notice and subject to restrictions contained in confidentiality agreements to which such party is subject (from which such party shall use reasonable efforts to be released), Seller shall afford to the officers, employees, accountants, counsel and other representatives of Buyer, access, during normal business hours during the period prior to the Closing, to Seller's properties, books, contracts, commitments and records to the extent relating to the Acquired Assets and, during such period, Seller shall furnish promptly to the other all information concerning the Acquired Assets as Buyer may reasonably request. Unless otherwise required by law or court order, Buyer will hold any such information which is nonpublic in accordance with Section 5.02(b).

Section 5.02 Covenants of Buyer. Buyer agrees that:

(a) **No Inconsistent Actions.** During the period from the date of this Agreement and continuing until the Closing Date, Parent and Buyer will not (i) take or agree or commit to take any action that would make any representation and warranty of Parent or Buyer inaccurate in any respect at, or as of any time prior to, the Closing Date or (ii) omit or agree or commit to omit to take any action necessary to prevent any such representation or warranty from being inaccurate in any respect at any such time.

(b) **Confidentiality.** Prior to the Closing Date and after any termination of this Agreement, Buyer and its affiliates (including Parent) will hold, and will use commercially reasonable efforts to cause their respective officers, directors, employees, accountants, counsel, consultants, advisors and agents to hold, in confidence, unless compelled to disclose by judicial or administrative process or by other requirements of law, all confidential documents and information concerning Seller or the Acquired Assets furnished to Buyer or its affiliates in connection with the transaction contemplated by this Agreement, except to the extent that such information can be shown to have been (i) previously known on a nonconfidential basis by Buyer, (ii) in the public domain through no fault of Buyer or (iii) later lawfully acquired by Buyer from sources other than Seller; provided that Parent and Buyer may disclose such information to their respective officers, directors, employees, accountants, counsel, consultants, advisors and agents in connection with the transactions contemplated by this Agreement and to their respective financing sources so long as such Persons are informed by Buyer of the confidential nature of such information and are directed by Buyer to treat such information confidentially. The obligation of Buyer and its affiliates to hold such information in confidence shall be satisfied if they exercise the same care with respect to such information as they would take to preserve the confidentiality of their own similar information. If this Agreement is terminated, Buyer and its affiliates will, and will use commercially reasonable efforts to cause their respective officers, directors, employees, accountants, counsel, consultants, advisors and agents to, destroy or deliver to Seller, upon request, all documents and other materials, and all copies thereof, obtained by Buyer and its affiliates or on their behalf from Seller in connection with this Agreement that are subject to such confidence.

Section 5.03 Covenants of All Parties. Each party agrees that:

(a) **Commercially Reasonable Efforts.** Subject to the terms and conditions of this Agreement, each of the parties hereto agrees to use its commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate and make effective the transactions contemplated by this Agreement. The parties each agree to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be necessary or desirable in order to consummate or implement expeditiously the transactions contemplated by this Agreement.

(b) **Certain Filings.** The parties will cooperate with one another (i) in determining whether any action by or in respect of, or filing with, any Governmental Entity is required or any actions, consents, approvals or waivers are required to be obtained from parties to any material contracts, in connection with the transactions contemplated by this Agreement and (ii) in taking such actions or making any such filings, furnishing information required in connection therewith and seeking timely to obtain any such actions, consents, approvals or waivers.

(c) **Public Announcements.** Seller understands that Parent is a publicly traded corporation, and that the disclosure of information concerning Parent and its business affairs and financial condition is strictly regulated by the Commission and other legal and administrative bodies. Accordingly, Seller hereby agrees (i) that Parent may make or disseminate any public statement, press release or other disclosure concerning this Agreement, any schedule or exhibit attached hereto, or the transactions and relationships contemplated hereby and thereby as it deems necessary to comply with applicable law or regulation (including, without limitation, the filing of this Agreement and its exhibits and schedules) and (ii) to take reasonable measures not to make or disseminate any public statement, press release or other disclosure concerning this Agreement, any schedule or exhibit attached hereto, or the transactions and relationships contemplated hereby and thereby, without the prior written consent of Parent (which consent may be given or withheld in its sole discretion).

(d) **Notices.** Each of the parties shall give prompt notice to the other party of: (i) any notice of, or other communication relating to, a default or event which, with notice or the lapse of time or both, would become a default, received by it or any of its subsidiaries subsequent to the date of this Agreement and prior to the Closing, under any agreement, indenture or instrument material to the financial condition, properties, businesses or results of operations of it and its subsidiaries, taken as a whole, to which it or any of its subsidiaries is a party or is subject; and (ii) any notice or other communication from any third party alleging that the consent of such third party is or may be required in connection with the transactions contemplated by this Agreement, which consent, if required, would breach the representations contained in Articles III and IV.

(e) **Tax Cooperation; Allocation of Taxes.**

(i) Seller and Buyer agree to furnish or cause to be furnished to each other, upon reasonable request, as promptly as practicable, such information and assistance relating to the Acquired Assets and the Business as is reasonably necessary for the filing of all Tax returns, and making of any election related to Taxes, the preparation for any audit by any taxing authority, and the prosecution or defense of any claim, suit or proceeding relating to any Tax return. Seller and Buyer shall cooperate with each other in the conduct of any audit or other proceeding related to Taxes involving the Business.

(ii) All real property, personal property and similar ad valorem obligations levied with respect to the Acquired Assets for a taxable period which includes (but does not end on) the Closing Date shall be apportioned between Seller and Buyer as of the Closing Date based on the number of days of such taxable period included in the Pre-Closing Tax Period and the number of days of such taxable period included in the Post-Closing Tax Period. Seller shall be liable for the proportionate amount of such taxes that is attributable to the Pre-Closing Tax Period, and Buyer shall be liable for the proportionate amount of such taxes that is attributable to the Post-Closing Tax Period. Within 90 days after the Closing, Seller and Buyer shall present a statement to the other setting forth the amount of reimbursement to which each is entitled under this Section 5.03(e) together with such supporting evidence as is reasonably necessary to calculate the proration amount. The proration amount shall be paid by the party owing it to the other within 30 days after receipt of such statement by certified mail, express mail or personal service. Thereafter, Seller shall notify Buyer upon receipt of any bill for real or personal property taxes relating to the Acquired Assets, part or all of which are attributable to the Post-Closing Period, and shall promptly deliver such bill to Buyer who shall pay the same to the appropriate taxing authority, provided that if such bill covers the Pre-Tax Closing Period, Seller shall also remit prior to the due date of assessment to Buyer payment for the proportionate amount of such bill that is attributable to the Pre-Closing Tax Period. In the event that either Seller or Buyer shall thereafter make a payment for which it is entitled to reimbursement under this Section 5.03(e), the other party shall make such reimbursement promptly, but in no event later than 30 days after the presentation of a statement setting forth the amount of reimbursement to which the presenting party is entitled along with such supporting evidence as is reasonably necessary to calculate the amount of reimbursement. Any payment required under this Section and not made within 30 days after receipt of the statement by certified mail, express mail or personal service shall bear interest at a rate of 10% per annum until paid.

(iii) Any transfer, documentary, sales, use or other Taxes assessed upon or with respect to the transfer of the Acquired Assets to Buyer and any recording or filing fees with respect thereto shall be the responsibility of Seller.

(f) **Employee Matters.**

(i) On the Closing Date, Buyer will offer employment to those employees of the Business as it may determine in its sole discretion; provided that Buyer may terminate at any time after the Closing Date the employment of any employee who accepts such offer. Any such offers will be at such salary or wage and benefit levels and on such other terms and conditions as Buyer shall in its sole discretion deem appropriate. The employees who accept and commence employment with Buyer are hereinafter collectively referred to as the "Transferred Employees". Seller will not take, and will cause each of its affiliates not to take, any action which would impede, hinder, interfere or otherwise compete with Buyer's effort to hire any Transferred Employees. Buyer shall not assume responsibility for any Transferred Employee until such employee commences employment with Buyer.

(ii) Seller shall retain all obligations and liabilities under employee benefit plans and benefit arrangements in respect of each employee or former employee (including any beneficiary thereof) who is not a Transferred Employee. Seller shall retain all liabilities and obligations in respect of benefits accrued as of the Closing Date by Transferred Employees under the employee benefit plans and benefit arrangements, and neither Buyer nor any affiliate shall have any liability with respect thereto. Except as expressly set forth herein, no assets of any employee benefit plan or benefit arrangement shall be transferred to Buyer or any of its affiliates or to any plan of Buyer or any of its affiliates.

(iii) With respect to the Transferred Employees (including any beneficiary or dependent thereof), Seller shall retain (A) all liabilities and obligations arising under any group life, accident, medical, dental or disability plan or similar arrangement (whether or not insured) to the extent that such liability or obligation relates to contributions or premiums accrued (whether or not payable), or to claims incurred (whether or not reported), on or prior to the Closing Date, (B) all liabilities and obligations arising under any worker's compensation arrangement to the extent such liability or obligation relates to the period prior to the Closing Date, including liability for any retroactive workman's compensation premiums attributable to such period and (C) all other liabilities and obligations arising under any employee benefit plans and the benefit arrangements to the extent any such liability or obligation relates to the period prior to the Closing Date, including without limitation, accruals through the Closing Date under any bonus plan or arrangement, any vacation plans, arrangements and policies.

(iv) No provision of this Section 5.03(f) shall create any third party beneficiary or other rights in any employee or former employee (including any beneficiary or dependent thereof) of Seller or of any of its subsidiaries in respect of continued employment (or resumed employment) with either Buyer or the Business or any of their affiliates and no provision of this Section 5.03(f) shall create any such rights in any such Person in respect of any benefits that may be provided, directly or indirectly, under any employee benefit plan or arrangement which may be established by Buyer or any of its affiliates. No provision of this Agreement shall constitute a limitation on the rights to amend, modify or terminate after the Closing Date any such plans or arrangements of Buyer or any of its affiliates.

ARTICLE VI

CONDITIONS

Section 6.01 Conditions to Each Party's Obligations. The obligation of each party to consummate the Closing is subject to the satisfaction of the following conditions:

(a) All authorizations, consents, orders or approvals of, or declarations or filings with, or expirations or terminations of waiting periods imposed by, any Governmental Entity, and all required third party consents (as set forth on Section 3.03 of the Seller Disclosure Schedule), shall have been filed, occurred or been obtained.

(b) No statute, rule, regulation, executive order, decree or injunction shall have been enacted, entered, promulgated or enforced by any court or governmental authority which prohibits the consummation of the Closing and shall be in effect.

Section 6.02 Conditions to Obligations of Parent and Buyer. The obligations of Parent and Buyer to consummate the Closing is subject to the satisfaction of the following further conditions:

(a) The representations and warranties of Seller set forth in this Agreement shall be true and correct as of the date of this Agreement, and shall also be true in all material respects (except for such changes as are contemplated by the terms of this Agreement and such changes as would be required to be made in the exhibits to this Agreement if such schedules were to speak as of the Closing Date) on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date.

(b) Seller shall have performed in all material respects all obligations required to be performed by it or him under this Agreement at or prior to the Closing Date.

(c) Buyer shall have received a certificate signed by the Chief Executive Officer of Seller confirming Sections 6.02(a) and (b).

(d) Buyer shall have received (i) resolutions duly adopted by the Board of Directors and the members of Seller approving the execution and delivery of this Agreement and all other necessary or proper organizational action to enable Seller to comply with the terms of this Agreement, and (ii) all other documents it may reasonably request relating to the existence of Seller and the authority of Seller for this Agreement, all in form and substance reasonable satisfactory to Buyer.

(e) Each creditor of Seller listed on Schedule 2.06(a) attached hereto shall have executed and delivered to Buyer a consent and release agreement (in form and substance satisfactory to Buyer in its sole and absolute discretion) providing, among other things, for: (i) the creditor's consent to this Agreement and the transactions contemplated hereby, (ii) a release of any and all Liens of such creditor in respect of the Acquired Assets, and (iii) a full and unconditional release by such creditor of Parent and Buyer from any and all claims and liabilities related to this Agreement, the transactions contemplated hereby and the obligations of Seller to such creditor.

(f) Each current and former member and director of Seller shall have executed and delivered to Buyer a consent and release agreement (in form and substance satisfactory to Buyer in its sole and absolute discretion) providing, among other things, for: (i) such person's consent to this Agreement and the transactions contemplated hereby, (ii) a release of any and all Liens of such person in respect of the Acquired Assets, and (iii) a full and unconditional release by such person of Parent and Buyer from any and all claims and liabilities related to this Agreement, the transactions contemplated hereby and the obligations of Seller to such person.

(g) Seller and each member of Seller shall have executed and delivered a Non-Competition Agreement, in the form set forth as Exhibit B hereto, to Buyer.

Section 6.03 Conditions to Obligation of Seller. The obligation of Seller to consummate the Closing is subject to the following further conditions:

(a) The representations and warranties of Buyer set forth in this Agreement shall be true and correct as of the date of this Agreement, and shall also be true in all material respects (except for such changes as are contemplated by the terms of this Agreement and such changes as would be required to be made in the exhibits to this Agreement if such schedules were to speak as of the Closing Date) on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date.

(b) Buyer shall have performed in all material respects all obligations required to be performed by them under this Agreement at or prior to the Closing Date.

(c) Seller shall have received a certificate signed by the Chief Executive Officer of Buyer confirming Section 6.03(a) and (b).

(d) Seller shall have received (i) resolutions duly adopted by the Boards of Directors of Parent and Buyer approving the execution and delivery of this Agreement and all other necessary or proper corporate action to enable Buyer to comply with the terms of this Agreement, and (ii) all other documents it may reasonably request relating to the existence of Parent and Buyer and the authority of Parent and Buyer for this Agreement, all in form and substance reasonable satisfactory to Seller.

ARTICLE VII

SURVIVAL; INDEMNIFICATION

Section 7.01 Survival. The covenants, agreements, representations and warranties of the parties hereto contained in this Agreement or in any certificate or other writing delivered pursuant hereto or in connection herewith shall survive the Closing until the expiration of the applicable statute of limitations (giving effect to any waiver, mitigation or extension thereof), (b) in the case of the Non-Competition Agreements, for the period set forth therein or (c) in the case of Sections 5.01(b) and 5.02(b), indefinitely. Notwithstanding the preceding sentence, any covenant, agreement, representation or warranty in respect of which indemnity may be sought under Section 7.02 shall survive the time at which it would otherwise terminate pursuant to the preceding sentence if a claim for indemnity related to such covenant, agreement, representation or warranty is made prior to the expiration of the applicable survival period.

Section 7.02 Indemnification.

(a) Seller hereby indemnifies Parent and Buyer against and agrees to hold them harmless from any and all damage, loss, liability and expense (including without limitation reasonable expenses of investigation and reasonable attorneys' fees and expenses in connection with any action, suit or proceeding) ("Damages") incurred or suffered by Parent or Buyer arising out of (i) any misrepresentation or breach of warranty, covenant or agreement made or to be performed by Seller pursuant to this Agreement or (ii) the failure of Seller to perform any Excluded Liability or any obligation or liability of the Business relating to the Excluded Assets.

(b) Buyer hereby indemnifies Seller against and agrees to hold it harmless from any and all Damages incurred or suffered by Seller arising out of (i) any misrepresentation or breach of warranty, covenant or agreement made or to be performed by Parent or Buyer pursuant to this Agreement or (ii) the failure of Buyer to perform any Assumed Liability.

Section 7.03 Procedures. The party seeking indemnification under Section 7.02 (the "Indemnified Party") agrees to give prompt notice to the party against whom indemnity is sought (the "Indemnifying Party") of the assertion of any third-party claim, or the commencement of any third-party suit, action or proceeding in respect of which indemnity may be sought under such Section. The Indemnifying Party may at the request of the Indemnified Party participate in and control the defense of any such suit, action, or proceeding at its own expense. The Indemnifying Party shall not be liable under Section 7.02 for any settlement effected without its consent (which consent will not be unreasonably withheld) of any claim, litigation or proceeding in respect of which indemnity may be sought hereunder.

Section 7.04 Right to Withhold and Offset. Notwithstanding anything to the contrary in this Agreement, Parent and Buyer may withhold the aggregate amounts of any indemnification claims then pending or unresolved against Seller pursuant to Section 7.02(a) (including, without limitation, the amount of any Damages or reasonably anticipated Damages for which Parent or Buyer would be entitled to be indemnified for pursuant to Section 7.02(a)) against amounts otherwise payable to Seller hereunder (including, without, limitation, any payment of Earn-Out Amounts) as security for the Seller's obligations under this Article VII. If any claim for indemnification pursuant to Section 7.02(a) is resolved, in whole or in part, in favor of Parent or Buyer, then the amount determined to be due Parent or Buyer, to the extent in excess of the any amounts previously received by Parent or Buyer in respect of such claim for indemnification, may be off-set by Buyer against amounts otherwise payable to Seller hereunder. Any portion of an amount previously withheld by Buyer in respect of any claim that is determined not to be payable to Parent or Buyer shall forthwith be paid to the Seller. The right of set-off described in this Section 7.04 shall not preclude Parent or Buyer from pursuing any other remedy under this Agreement or seeking injunctive relief or specific performance to enforce specifically the terms of this Agreement to the extent permitted by applicable law.

ARTICLE VIII

TERMINATION AND AMENDMENT

Section 8.01 Termination. This Agreement may be terminated at any time prior to the Closing Date:

(a) by mutual consent of Buyer and Seller;

(b) by either Buyer or Seller if the Closing shall not have been consummated on or before [April 1], 2013 (unless the failure to consummate the Closing by such date shall be due to the action or failure to act of the party seeking to terminate this Agreement);

(c) by either Buyer or Seller if (i) the conditions to such party's obligations shall have become impossible to satisfy or (ii) any permanent injunction or other order of a court or other competent authority preventing the consummation of the Closing shall have become final and non-appealable;

(d) by Buyer if Seller has breached its obligations set forth in this Agreement and such breach is not cured within five business days after written notice thereof; or

(e) by Seller if Parent or Buyer have breached their obligations set forth in this Agreement and such breach is not cured within five business days after written notice thereof.

Section 8.02 Effect of Termination. In the event of the termination and abandonment of this Agreement pursuant to Section 8.01 hereof, this Agreement shall forthwith become void and have no effect, without any liability on the part of any party hereto or its affiliates, directors, officers or stockholders, other than the provisions of Sections 5.01(b) and 5.02(b). Nothing contained in this Section 8.02 shall relieve any party from liability for any breach of this Agreement.

Section 8.03 Amendment. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto.

Section 8.04 Extension; Waiver. At any time prior to the Closing Date, the parties hereto may, to the extent legally allowed, (a) extend the time for the performance of any of the obligations or other acts of the other parties hereto, (b) waive any inaccuracies in the representations and warranties contained herein or in any document delivered pursuant hereto and (c) waive compliance with any of the agreements or conditions contained herein. Any agreement on the part of a party hereto to any such extension or waiver shall be valid only if set forth in a written instrument signed on behalf of such party.

ARTICLE IX

MISCELLANEOUS

Section 9.01 Notices. All notices and other communications hereunder shall be in writing (and shall be deemed given upon receipt) if delivered personally, electronically (which is confirmed) or mailed by registered or certified mail (return receipt requested) to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

(a) if to Parent or Buyer, to:

Mobivity, Inc.
58 W. Buffalo St. #200
Chandler, AZ 85225
Email:

Attn: Dennis Becker, CEO

and

(b) if to Seller, to

Sequence LLC

Attn:

Section 9.02 Descriptive Headings. The descriptive headings herein are inserted for convenience only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

Section 9.03 Counterparts. This Agreement may be executed in two or more original or electronic counterparts, all of which shall be considered one and the same agreement and shall become effective when two or more counterparts have been signed by each of the parties and delivered to the other parties, it being understood that all parties need not sign the same counterpart.

Section 9.04 Entire Agreement; Assignment. This Agreement (a) constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof (other than any confidentiality agreement between the parties; any provisions of such agreements which are inconsistent with the transactions contemplated by this Agreement being waived hereby) and (b) shall not be assigned by operation of law or otherwise, provided that Buyer may assign its rights and obligations to any other wholly owned subsidiary of Parent or Buyer, but no such assignment shall relieve Buyer of its obligations hereunder if such assignee does not perform such obligations.

Section 9.05 Governing Law; Jurisdiction.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona as applied to agreements among the residents of such state made and to be performed entirely within such state (without giving effect to principles of conflicts of laws).

(b) Any dispute, controversy or claim, whether based on contract, tort, statute, fraud, misrepresentation or any other legal theory (a “Dispute”) between the Buyer or Parent, on the one hand, and Seller, on the other hand, arising out of or relating to this Agreement, any obligations hereunder or the relationship of the parties under this Agreement shall be settled by binding arbitration conducted in Chandler, Arizona in accordance with the then current arbitration rules of JAMS as modified by the following provisions of this Agreement:

(i) Selection of one neutral arbitrator by the parties shall be from JAMS panel list and shall be chosen by the Seller and the Buyer together; provided, that if the Seller and the Buyer are unable to reach agreement with respect to the arbitrator, the arbitrator shall be chosen in accordance with appointment rules of JAMS. The arbitrator shall be experienced in complex business matters and mergers and acquisitions transactions.

(ii) Proceedings in arbitration shall begin no later than 45 days after the filing of the Dispute with JAMS and shall be scheduled to conclude no later than 180 days after the filing of the Dispute (including delivery of the written judgment under clause (vi) below).

(iii) The Seller and the Buyer may obtain and take discovery, including requests for production, interrogatories, requests for admissions and depositions, as provided by the Federal Rules of Civil Procedure; provided that the arbitrator may, in his discretion, set parameters on the timing and/or completion of this discovery and may order additional pre-hearing exchange of information, including, without limitation, exchange of summaries of testimony or exchange of statements of positions.

(iv) The arbitration proceedings and all testimony, filings, documents and information relating to or presented during the arbitration proceedings shall be disclosed exclusively for the purpose of facilitating the arbitration process and for no other purpose.

(v) The award of the arbitrator shall be made in a written opinion containing a concise reasoned analysis of the basis upon which the award was made.

(vi) A judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

(vii) The parties to any arbitration shall share equally the fees and costs of JAMS and the arbitrator(s). The prevailing party or parties shall be entitled to recover from the adverse parties his, her or its actual reasonable attorneys' fees and costs incurred in connection with the arbitration and the enforcement thereof.

(viii) Any party may apply to a court having jurisdiction to: (A) enforce this agreement to arbitrate; (B) seek provisional injunctive relief so as to maintain the status quo until the arbitration award is rendered or the controversy is otherwise resolved; (C) avoid the expiration of any applicable limitations period; (D) preserve a superior position with respect to other creditors; or (E) challenge or vacate any final judgment, award or decision of the arbitrator(s) that does not comport with the express provisions of Section 10.05(b)(ix).

(ix) The arbitrator is only authorized to, and only have the consent of the parties to, interpret and apply the terms and conditions of this Agreement in accordance with the governing law. The arbitrator is not authorized to, and shall not, order any remedy not permitted by this Agreement and shall not change any term or condition of this Agreement, deprive either party of any remedy expressly provided hereunder or provide any right or remedy that has not been expressly provided hereunder. In the event that the arbitrator exceeds his authority under this Agreement and violates this provision, either party may petition a court of competent jurisdiction to vacate the arbitration award on the grounds that the arbitrator exceeded his authority.

(x) The Federal Arbitration Act, 9 U.S.C. Sections 1 through 14 (as amended and including any successor provision), except as modified hereby, shall govern the interpretation and enforcement of this Section 9.05(b).

Notwithstanding the foregoing, the parties shall continue performing their respective obligations under this Agreement while the Dispute is being resolved unless and until such obligations are terminated or expire in accordance with the provisions hereof.

Section 9.06 Specific Performance. The parties hereto agree that if any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached, irreparable damage would occur, no adequate remedy at law would exist and damages would be difficult to determine, and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy at law or equity.

Section 9.07 Expenses. Whether or not the Closing is consummated, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses.

Section 9.08 Bulk Sales Laws. Buyer and Seller each hereby waive compliance by Seller with the "bulk sales", "bulk transfer" or similar laws of any state. Seller agrees to indemnify and Buyer harmless against any and all claims, losses, damages, liabilities, costs and expenses incurred by Buyer or any of its affiliates as a result of any failure to comply with any such "bulk sales", "bulk transfer" or similar laws.

Section 9.09 Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of each party hereto, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other person or persons any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed as of the date first written above.

MOBIVITY HOLDINGS CORP.

By:
Name: Dennis Becker
Title: Chief Executive Officer

MOBIVITY, INC.

By:
Name: Dennis Becker
Title: Chief Executive Officer

SEQUENCE LLC

By:
Name:
Title:

EXHIBIT A to ASSET PURCHASE AGREEMENT
Assignment and Assumption Agreement

ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Agreement"), dated as of ____ , 2013, between Mobivity, Inc., a Nevada corporation ("Buyer") and Sequence LLC ("Seller").

WHEREAS, Seller and Buyer have concurrently herewith consummated the purchase by Buyer of the Acquired Assets pursuant to the terms and conditions of the Asset Purchase Agreement, dated _____, 2013, among Mobivity Holdings Corp., Buyer, and Seller (the "Asset Purchase Agreement"; terms defined in the Asset Purchase Agreement and not otherwise defined herein being used herein as therein defined);

WHEREAS, pursuant to the Asset Purchase Agreement, Buyer has agreed to assume certain liabilities and obligations of Seller;

NOW, THEREFORE, in consideration of the sale of the Acquired Assets and in accordance with the terms of the Asset Purchase Agreement, Buyer and Seller agree as follows:

1. Seller does hereby sell, transfer, assign and deliver to Buyer all of the right, title and interest of Seller in, to and under the Acquired Assets.
2. Buyer does hereby accept all of the right, title and interest of Seller in, to and under the Acquired Assets and Buyer assumes and agrees to perform all of the Assumed Liabilities.
3. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. It shall be governed by and construed in accordance with the laws of the State of Arizona, without giving effect to conflict of laws. Any Dispute arising out of, based on, or in connection with this Agreement or the transactions contemplated hereby shall be resolved in the manner contemplated by the Asset Purchase Agreement.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written above.

MOBIVITY, INC.

By:
Name: Dennis Becker
Title: Chief Executive Officer

SEQUENCE LLC

By:
Name:
Title: Chief Executive Officer

Schedule 2.02(a)

Excluded Contracts

Schedule 2.06(a)

Sequence Obligations

[Note: List and description of obligations to be revised during due diligence]

Creditor/Obligation	Amount of Liability Represented by Seller
All liabilities of Seller to ArcTouch, Inc. ("ArcTouch"), including (without limitation) under the Master Services Agreement, dated May 2012, between ArcTouch and GME Marketing Solutions, LLC	\$ 90,000.00
Nevada Labor Board (Anthony Clarke)	
Nevada Labor Board (Cindy Scott)	
Nevada Labor Board (Kane Scott)	
Nevada Labor Board (Theresa Hallenbeck)	
Nevada Labor Board (Kathleen Haynes)	
Nevada Labor Board (Marcia Pope)	
Nevada Labor Board	46,501.30
Internal Revenue Service	\$ 80,129.00
All liabilities of Seller to Randazzo Parties, LLC ("Randazzo"), including (without limitation) under the Lease Agreement between Randazzo and the Company	\$ 25,000.00
Roemer & Harnik, LLP	7,000.00
Tramel Holdings	\$ 51,369.70

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER
Pursuant to Rule 13a-14(a) adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Dennis Becker, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Mobivity Holdings Corp. for the quarter ended March 31, 2013;
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 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 our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us 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 our 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 our 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 and I have disclosed, based on our 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.

Date: May 15, 2013

By: /s/ Dennis Becker
Dennis Becker
Chief Executive Officer

(Principal Executive Officer)

CERTIFICATION OF CHIEF FINANCIAL OFFICER
Pursuant to Rule 13a-14(a) adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Timothy Schatz, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Mobivity Holdings Corp. for the quarter ended March 31, 2013;
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 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 our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us 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 our 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 our 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 and I have disclosed, based on our 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.

Date: May 15, 2013

By: /s/ Timothy Schatz
Timothy Schatz

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q of Mobivity Holdings Corp., a Nevada corporation (the “Company”), for the period ended March 31, 2013, as filed with the Securities and Exchange Commission on the date hereof (the “Report”), we, Dennis Becker, Chief Executive Officer of the Company, and Timothy Schatz, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

Dated: May 15, 2013

/s/ Dennis Becker
Dennis Becker
Chief Executive Officer
(Principal Executive Officer)

/s/ Timothy Schatz
Timothy Schatz
Chief Financial Officer

(Principal Financial and Accounting Officer)