

Risk Factors Comparison 2024-03-15 to 2023-03-31 Form: 10-K

Legend: **New Text** ~~Removed Text~~ Unchanged Text **Moved Text** Section

An investment in our securities involves a high degree of risk. You should consider carefully the risks and uncertainties described below, together with all of the other information contained in this Annual Report, including our consolidated financial statements and related notes, before deciding to invest in our securities. If any of the following events occur, our business, financial condition and operating results may be materially adversely affected. In that event, the trading price of our securities could decline, and you could lose all or part of your investment. The risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties that we are unaware of, or that we currently believe are not material, may also become important factors that adversely affect our business or results of operations. Risks Related to Our Business, Operations and Industry We have a history of losses, we expect to continue to incur losses and we may not achieve or sustain profitability in the future. We have incurred significant losses in each fiscal year since our inception. We experienced a consolidated net loss for the years ended December 31, **2022-2023** and December 31, **2021-2022**. These losses were due to both a decline in platform revenue in **2021 and 2022 and 2023**, as compared to previous years, losses related to our digital asset holdings and the substantial investments we made to build our products and services, grow and maintain our business, acquire customers and service our various debt obligations. You should not consider our historical revenue levels or operating expenses prior to recent periods as indicative of our future performance. Key elements of our growth strategy include acquiring new customers and continuing to innovate and expand our product offerings. As a result, our operating expenses may continue to increase in the future due to expected increased sales and marketing expenses, operating costs, research and development costs and general and administrative costs and, therefore, our operating losses may continue or even potentially increase for the foreseeable future. In addition, as a public company we incur significant legal, accounting and other expenses, including, but not limited to additional costs in resolving our existing legal matters. Furthermore, to the extent that we are successful in increasing our customer base, we may also incur increased expenses because costs associated with generating and supporting customer agreements are generally incurred up front. Revenue recognition may not occur during the same the same period in which we incur costs associated with our agreements. Our efforts to grow our business may be costlier than we expect and we may not be able to increase our revenue enough to offset our higher operating expenses. We may incur significant losses in the future for many reasons, including the other risks described in this Annual Report and unforeseen expenses, difficulties, complications and delays and other unknown events. You should not rely upon future bookings we may announce or revenue growth as indicative of our future performance. We cannot assure you that we will reach profitability in the future or at any specific time in the future or that, if and when we do become profitable, **that** we will sustain profitability. If we are ultimately unable to generate sufficient revenue to meet our financial targets, become profitable and have sustainable positive cash flows, investors could ~~lose their investment. Our consolidated financial statements include an explanatory paragraph expressing substantial doubt about our ability to continue as a going concern. The notes accompanying our consolidated financial statements contain an explanatory paragraph expressing substantial doubt about our ability to continue as a going concern due to our recurring losses from operations and substantial decline in our working capital. If we are unsuccessful in our efforts to raise outside financing, we may be required to significantly reduce or cease operations. The report of our independent registered public accounting firm on our audited financial statements for the year ended December 31, 2022 included a "going concern" explanatory paragraph. We current have an effective registration statement on Form S-3 filed with the SEC. We may use the shelf registration statement on Form S-3 to offer from time to time any combination of common stock, preferred stock, warrants and units. Contained therein, is a prospectus supplement in which we may sell up to \$ 100 million of our common stock in an "at the market" offering pursuant to a sales agreement we entered into with H. C. Wainwright & Co., LLC on January 31, 2022. As of the date of this Annual Report on Form 10-K, a total of \$ 95.4 million of shares of our common stock remains issuable pursuant to the sales agreement. There can be no assurance that we will be able to raise sufficient additional capital on acceptable terms or at all. A "going concern" qualification could impair our ability to finance our operations through the sale of equity, to incur debt or to pursue other financing alternatives. Our ability to continue as a going concern will depend upon the availability and terms of future funding, growth in revenue, improved operating margins and our ability to profitably meet our after-sale service commitments with existing customers. If we are unable to achieve these goals, our business could be jeopardized and may not be able to continue. If we ceased operations, it is likely that all of our investors would lose their investment. Our future performance will depend on the successful transition of our Chief Executive Officer (CEO). In On October 25, 2022-2023, our co-founder and CEO, Alan Knitowski, submitted notice of resignation to the Company and effective upon the expiration of his employment contract on December 26, 2022. In November 2022, we announced the hiring of Russell Buysse to serve, the Company's CEO, entered into a separation agreement which provided that Mr. Buysse's employment with the Company terminated. On the same day, our board of directors appointed the Company's Chief Revenue Officer, Michael Snavely, as CEO our Chief Executive Officer effective as of December 28, 2022.~~ If we are unable to execute a timely and orderly transition and successfully integrate our new CEO into our leadership team, revenue, operating results and our financial condition may be adversely impacted. Our future performance also will continue to depend on the services and contributions of our other senior management and key employees to execute on our business plan and to identify and pursue new opportunities as well as service and product innovations. These changes, and any future changes, in our operations and management team could be disruptive to our operations. Further, if our new CEO formulates different or changed views, the future strategy and plans of our business may differ materially from those of the past. We are currently operating in a period of

significant macro- economic uncertainty, including supply- chain disruptions ,~~COVID-related disruptions~~ and inflationary pressures. Weakened economic conditions may have an adverse impact on our business and results of operations. Adverse macroeconomic conditions, including inflation, slower growth or recession, new or increased tariffs, changes to fiscal and monetary policy, tighter credit, higher interest rates, high unemployment and currency fluctuations could materially adversely affect demand for our products and services .~~Inflationary pressures and supply chain disruptions could impact the price at which we acquire components required in the assembly of Lyte computer systems~~. Our principal operating expense is compensation related costs. Inflation rates, particularly in the United States, have increased recently to levels not seen in years, and increased inflation may result in decreased demand for our products and services, increases in our operating costs (including our labor costs), reduced liquidity and limits on our ability to access credit or otherwise raise capital. The effects of inflation on customer and consumer budgets could result in the reduction of our customers' spending plans. These and other economic factors could materially adversely affect our business, results of operations and financial condition. ~~In addition, the effects of macro- economic uncertainty, including, but not limited to the COVID- 19 pandemic, may heighten many of the other risks described in this " Risk Factors " section.~~ If we are unable to expand or renew sales to existing customers, or attract new customers, our growth could be slower than expected and our business may be harmed. Our future growth depends upon expanding sales and renewals of sales of our technology, products and services to existing customers ~~and expansion of our personal computer offerings~~. Our customers may not continue to purchase our technology offerings and services, or our customers may reduce their purchase rate of services, if we do not demonstrate the value proposition for their investment and we may not be able to replace existing customers with new customers. In addition, our customers may not renew their contracts with us on the same terms, or at all, because of dissatisfaction with our product or service offerings. If our customers do not renew their contracts, our revenue may grow more slowly than expected, may not grow at all, or may decline. Additionally, increasing incremental sales to our current customer base may require increasingly sophisticated and costly sales efforts that are targeted at senior management. We plan to continue expanding our sales efforts but we may be unable to hire qualified sales personnel, may be unable to successfully train those sales personnel that we are able to hire and sales personnel may not become fully productive on the timelines that we have projected, or at all. Additionally, although we dedicate significant resources to sales and marketing programs, these sales and marketing programs may not have the desired effect and may not expand sales. We cannot provide assurance that our efforts will increase sales to existing customers or generate additional revenue. If our efforts to upsell to our customers are not successful or we cannot find additional expansion opportunities, our future growth may grow more slowly than expected, may not grow at all, or may decline. Our ability to achieve significant growth in revenue in the future will also depend upon our ability to attract and sell our technology, products and services to new customers. This may be particularly challenging where an organization has already invested substantial personnel and financial resources to integrate competing technology, products and services. An organization may be reluctant or unwilling to invest in new technology offerings and services. If we fail to attract new customers and maintain and expand those customer relationships, our revenue may grow more slowly than expected, may not grow at all, or may decline and our business may be harmed. We have incurred a goodwill impairment charge ~~and goodwill continues to comprise a significant portion of our total assets. In the future, we could incur additional impairment charges, which could result in a material, non- cash write- down and could have a material adverse effect on our results of operations, financial condition and our future operating results.~~ The carrying value of our goodwill was \$ 31. 1 million, or approximately 57 % of our total assets, as of December 31, 2022. We perform an analysis on our goodwill balances to test for impairment on an annual basis or whenever events occur that may indicate impairment possibly exists. Goodwill is deemed to be impaired if the net book value of a reporting unit exceeds the estimated fair value. We periodically review the carrying values of goodwill and intangible assets to determine whether such carrying values exceed their fair market values. Declines in the profitability of the Company, due to economic or market conditions or otherwise, as well as adverse changes in financial, competitive and other conditions, could adversely affect the values of our reporting units, resulting in an impairment of goodwill or intangible assets. In addition, adverse changes to the key valuation assumptions contributing to the fair value of our reporting units could result in an impairment of goodwill or intangible assets . We completed our annual goodwill impairment analysis during the fourth quarter of 2022-2023 , and we concluded goodwill was impaired. Goodwill impairment charges of \$ 2-25 . 1-8 million were recorded during the year ended December 31, 2022-2023 . For additional details, refer to Note 6" Goodwill" of the notes to the consolidated financial statements included in Part II, Item 8 of this Annual Report on Form 10- K for further discussion on our goodwill impairment. ~~We cannot be certain that a future downturn in our business, changes in market conditions or a longer- term decline in the quoted market price of our stock will not result in future impairments of goodwill and the recognition of resulting expenses in future periods, which could adversely affect our results of operations for those periods.~~ Current and future litigation could adversely affect us. We, along with certain of our former ~~and current~~ executive officers and certain former ~~and current~~ board members, are parties to litigation with Wild Basin Investments, LLC as further described on our Current Report on Form 8- K filed with the SEC on January 10, 2020. We, along with our officers and directors, may also become subject to other legal proceedings in our ordinary course of business. We cannot predict with certainty the outcome of this legal proceeding. The outcome of this or future legal proceeding could require us to take, or refrain from taking, actions which could negatively affect our operations. Such legal proceedings involve substantial costs, including the costs associated with investigation, litigation and possible settlement, judgment, penalty, or fine. As a smaller company, the collective costs of litigation proceedings represent a drain on our cash resources, and require an inordinate amount of our management' s time and attention. An adverse ruling with respect to our current or any other litigation could have a material adverse effect on our results of operations and financial condition. Negative publicity surrounding such legal proceedings may also harm our reputation and adversely impact our business and results. Our results of operations and ability to grow could be negatively affected if we cannot adapt and expand our technology and product and service offerings in response to ongoing market changes. The collaboration and technology solutions business and markets are characterized by rapid

technological change, evolving industry standards, changing customer preferences and new product and service introductions. Our success depends on our ability to continue to develop and implement technology, product and service offerings that anticipate or timely respond to rapid and continuing changes in technology and industry developments and offerings by new technology providers to serve the evolving needs of our customers. Examples of areas of significant change in the industry include cloud, software defined infrastructure, virtualization, security, mobility, data analytics and IoT, the continued shift from maintenance to managed services and ultimately to cloud based services, as-a-service solutions, security and information technology automation. In addition, enterprises are continuing to shift from on-premise, hardware infrastructure to software centric hosted solutions. Technological developments such as these may materially affect the cost and use of technology and services by our customers and could affect the nature of how our revenue is generated. These technologies and others that may emerge, could reduce and, over time, replace some of our current business. In addition, customers may delay spending under existing contracts and engagements and may delay entering into new contracts while they evaluate new technologies. If we do not sufficiently invest in new technology, industry developments and our personnel, or evolve and expand our business at sufficient speed and scale, or if we do not make the right strategic investments to respond to these developments and successfully drive innovation, our technology, products and services, our results of operations and our ability to develop and maintain a competitive advantage and growth could be negatively affected. In addition, if we are unable to keep up with changes in technology and new hardware, software and services offerings, for example, by providing the appropriate training to our customer solutions team, sales directors, program management team, channel partners and software development and product engineers to enable them to effectively sell and deliver such new offerings to customers, our business, results of operations, or financial condition could be adversely affected. Demand for our technology, product and service offerings could be adversely affected by volatile, negative, or uncertain economic conditions, including, but not limited to those caused by the COVID-19 pandemic, and the effects of these conditions on our customers' businesses. Our revenue and profitability depend on the demand for our technology, product and service offerings, which could be negatively affected by numerous factors, many of which are beyond our control. Volatile, negative, or uncertain economic conditions, including those caused by the COVID-19 pandemic affect our customers' businesses and the markets we serve. Such economic conditions in our markets have undermined and could in the future undermine business confidence in our markets and cause our customers to reduce or defer their spending on new technology offerings and services, or may result in customers reducing, delaying or eliminating spending under existing contracts with us, which would negatively affect our business. Growth in the markets we serve could be at a slow rate, or could stagnate or contract, in each case for an extended period of time. Ongoing economic volatility and uncertainty and changing demand patterns affect our business in a number of other ways, including making it more difficult to accurately forecast customer demand and effectively build our revenue and resource plans. Economic volatility and uncertainty is particularly challenging because it may take some time for the effects and changes in demand patterns resulting from these and other factors to manifest themselves in our business and results of operations. Changing demand patterns from economic volatility and uncertainty could have a significant negative impact on our business, results of operations, or financial condition. If we fail to maintain the efficiency of our supply chain as we respond to changes in customer demand for our products, our business could be materially adversely affected. Our ability to meet customer demand for our products depends, in part, on our ability to deliver the products our customers want on a timely basis. For example, we rely on our supply chain for the manufacturing, distribution and fulfillment of Lyte personal computers. As we continue to grow Lyte, expand to international markets and acquire new customers, the efficiency of our supply chain will become increasingly important because many of our customers tend to have specific requirements for Lyte products, and specific time-frames in which they require delivery of these products. If we are unable to consistently deliver the right personal computers to our customers on a timely basis in the right locations, our customers may not order computers from us, which could have a material adverse effect on our business. Global political conditions may adversely affect demand for our products. Global political conditions may create uncertainties that could adversely affect our business. The United States has been and may continue to be involved in armed conflicts that could have a further impact on our sales and our supply chain related to acquiring necessary inventory to assemble Lyte computers. The consequences of armed conflict, political instability or civil or military unrest are unpredictable, and we may not be able to foresee events that could have a material adverse effect on us. Terrorist attacks or other hostile acts may negatively affect our operations, or adversely affect demand for our products, and such attacks or related armed conflicts may impact our physical facilities or those of our suppliers or customers. Furthermore, these attacks or hostile acts may make travel and the transportation of our products more difficult and more expensive, which could materially adversely affect us. Any of these events could cause consumer spending to decrease or result in increased volatility in the United States economy and global financial markets. The actual market for our products and services could be significantly smaller than estimates of total potential market opportunity and if customer demand for our products and services does not meet expectations, our ability to generate revenue and meet our financial targets could be adversely affected. While we expect growth in the markets for our products, it is possible that the growth in some or all of these markets may not meet our expectations, or materialize at all. The methodology on which our estimate of our total potential market opportunity is based includes several key assumptions based on our industry knowledge and customer experience. If any of these assumptions proves to be inaccurate, then the actual market for our solutions could be significantly smaller than our estimates of our total potential market opportunity. If the customer demand for our products or services or the adoption rate in our target markets does not meet our expectations, our ability to generate revenue from customers and meet our financial targets could be adversely affected. Substantial competition could reduce our market share and significantly harm our financial performance. The markets in which we operate are highly competitive, with relatively low barriers to entry for some software, product or service organizations. Some customers may be hesitant to switch vendors or to adopt cloud-based software such as ours and prefer to maintain their existing relationships. Some of our competitors are larger and have greater name recognition, much longer operating histories, larger marketing budgets and significantly greater

resources than we do. We also face competition from custom- built software vendors and from vendors of specific applications, some of which offer cloud- based solutions , ~~as well as custom- built personal computer hardware vendors~~. We may also face competition from a variety of vendors of software and products that address only a portion of our platform. In addition, other companies that provide cloud- based software in different target markets may develop software or acquire companies that operate in our target markets, and some potential customers may elect to develop their own internal software. With the introduction of new technologies and market entrants, we expect this competition to intensify in the future. Many of our competitors are able to devote greater resources to the development, promotion and sale of their products and services. Furthermore, our current or potential competitors may be acquired by third parties with greater available resources and the ability to initiate or withstand substantial price competition. In addition, many of our competitors have established marketing relationships, access to larger customer bases and major distribution agreements with consultants, system integrators and resellers. Our competitors may also establish cooperative relationships among themselves or with third parties that may further enhance their product offerings or resources. If our technology, products and services do not become more accepted relative to those of our competitors, or if our competitors are successful in bringing their products or services to market earlier than ours, or if the products or services of our competitors are more technologically capable than ours, then our revenues could be adversely affected. In addition, some of our competitors may offer their products and services at lower prices. If we are unable to achieve our target pricing levels, our operating results may be negatively affected. Pricing pressures and increased competition could result in reduced sales, reduced margins, losses or a failure to maintain or improve our competitive market position, any of which could adversely affect our business. Our future results will depend on our ability to continue to focus our resources and manage costs effectively. We are continually focusing on measures intended to further improve cost efficiency. We may be unable to realize all expected cost savings in connection with these efforts within the expected time frame, or at all, and we may incur additional and / or unexpected costs to realize them. Further, we may not be able to sustain any achieved savings in the future. Future results will depend on the success of these efforts. If we are unable to control costs, our operating margins could decrease and we may incur additional losses. Our future profitability will depend on our ability to manage costs or increase productivity. An inability to effectively manage costs could adversely impact our business, results of operations or financial condition. Our profitability could suffer if we are not able to manage large and complex projects and complete fixed price, fixed timeframe contracts on budget and on time. Our profitability and operating results are dependent on the scale of our projects and the prices we are able to charge for our technology, products and services. We perform a significant portion of our work through fixed price contracts, in which we assume full control of the project team and manage all facets of execution. As a significant portion of our projects are on a fixed price model, we may be unable to accurately estimate the appropriate project price and successfully manage such projects. Although we use specified technical processes and our past experience to reduce the risks associated with estimating, planning and performing fixed price and fixed timeframe projects, we face the risk of cost overruns, completion delays and wage inflation in connection with these projects. If we fail to accurately estimate the resources or time required for a project or future rates of wage inflation, or if we fail to perform contractual obligations within the contractual timeframe, our profitability could suffer. The challenges of managing larger and more complex projects include: • maintaining high quality control and process execution standards; • maintaining planned resource utilization rates on a consistent basis; • maintaining productivity levels and implementing necessary process improvements; • controlling project costs; • maintaining close customer contact and high levels of customer satisfaction; • recruiting and retaining sufficient numbers of skilled engineering, design and program management professionals; and • maintaining effective customer relationships. In addition, large and complex projects may involve multiple engagements or stages and there is a risk that a customer may choose not to retain us for additional stages or may cancel or delay additional planned engagements. Such cancellations or delays may make it difficult to plan our project resource requirements and may result in lower profitability levels than we anticipated upon commencing engagements. Our business strategy is evolving. Investments in new services and technologies may not be successful and may involve pursuing new lines of business or strategic transactions and investments, or dispositions of assets or businesses that may no longer help us meet our objectives. Such efforts may not be successful. We continue to invest in new services and technologies, including adding additional vertical solutions to our product offerings and blockchain. ~~We have expanded our Lyte computer offerings into Canada and may plan additional international expansion.~~ The complexity of these solutions, our learning curve in developing and supporting them and significant competition in the markets for these solutions could make it difficult for us to market and implement these solutions successfully. Additionally, there is a risk that our customers may not adopt these solutions widely, which could prevent us from realizing expected returns on these investments. Even if these solutions are successful in the market, they may rely on third- party technology, software, services and our ability to meet stringent service levels. If we are unable to deploy these solutions successfully or profitably, it could adversely impact our business, results of operations or financial condition. Our industry is undergoing significant change and our business strategy is continuing to evolve to meet these changes. In order to profitably grow our business, we may need to expand into new lines of business beyond our current focus of mobile engagement analytics products, mobile application advertising and services, which may involve pursuing strategic transactions, including potential acquisitions of, or investments in, related or unrelated businesses and assets. In addition, we may seek divestitures of existing businesses or assets. There can be no assurance that we will be successful with our efforts to evolve our business strategy and we could suffer significant losses as a result, which could have a material adverse effect on our business, financial condition and results of operations. If we decide to sell assets or a business, we may encounter difficulty in finding buyers or alternative exit strategies on acceptable terms in a timely manner, which could delay the achievement of our strategic objectives. We may also dispose of assets or a business at a price or on terms that are less desirable than we had anticipated. In addition, we may experience greater dis- synergies than expected and the impact of the divestiture on our revenue may be larger than projected. Future acquisitions could disrupt our business and may divert management' s attention and, if unsuccessful, harm our business. We may choose to expand by making additional acquisitions

that could be material to our business. We have in the past made several acquisitions of complementary businesses, including acquisitions of Odyssey, Simplikate, Digby, Tapit!, GoTV and ~~our most recently completed acquisition of~~ Lyte. Acquisitions involve many risks, including the following:

- an acquisition may negatively affect our results of operations and financial condition because it may require us to incur charges or assume substantial debt or other liabilities, may cause adverse tax consequences or unfavorable accounting treatment, may expose us to claims and disputes by third parties, including intellectual property claims and disputes, or may not generate sufficient financial return to offset additional costs and expenses related to the acquisition;
- we may encounter difficulties or unforeseen expenditures in integrating the business, technologies, products, personnel, or operations of any company that we acquire, particularly if key personnel of the acquired company decide not to work for us;
- an acquisition may disrupt our ongoing business, divert resources, increase our expenses, or distract our management;
- an acquisition may result in a delay or reduction of customer purchases for both us and the company we acquired due to customer uncertainty about continuity and effectiveness of service from either company;
- we may encounter difficulties in, or may be unable to, successfully sell any acquired technology, products or services;
- an acquisition may involve the entry into geographic or business markets in which we have little or no prior experience or where competitors have stronger market positions;
- the challenges inherent in effectively managing an increased number of employees in diverse locations;
- the potential strain on our financial and managerial controls and reporting systems and procedures;
- the potential known and unknown liabilities associated with an acquired company;
- our use of cash to pay for acquisitions would limit other potential uses for our cash;
- if we incur additional debt to fund such acquisitions, such debt may subject us to additional material restrictions on our ability to conduct our business as well as additional financial maintenance covenants;
- the risk of impairment charges related to potential write-downs of acquired assets or goodwill in future acquisitions;
- to the extent that we issue a significant amount of equity or equity linked securities in connection with future acquisitions, existing stockholders may be diluted and earnings per share may decrease; and
- managing the varying intellectual property protection strategies and other activities of an acquired company. We may not succeed in addressing these or other risks or any other problems encountered in connection with the integration of any acquired business. The inability to integrate successfully the business, technologies, products, services, personnel or operations of any acquired business, or any significant delay in achieving integration, could harm our business, results of operations or financial condition. We may not be able to recognize revenue in the period in which our services are performed, which may cause our margins to fluctuate. Our services are performed under both fixed-price and time and material contract arrangements. All revenue is recognized pursuant to applicable accounting standards. Our failure to meet all the obligations, or otherwise meet a customer's expectations, may result in us having to record the cost related to the performance of services in the period that services were rendered, but delay the timing of revenue recognition to a future period in which all service obligations have been met. Our financial results may be adversely affected by changes in accounting principles applicable to us. U. S. generally accepted accounting principles ("GAAP") are subject to interpretation by the Financial Accounting Standards Board ("FASB"), the SEC, and other various bodies formed to promulgate and interpret appropriate accounting principles. A change in these principles or interpretations could have a significant effect on our reported financial results for periods prior and subsequent to such change. We may adopt changes in accounting standards retrospectively to prior periods and the adoption may result in an adverse change to previously reported results. To adopt new standards, we may have to implement new modules in our accounting system, hire consultants and increase our spending on audit fees, thereby increasing our general and administrative expense. Any difficulties in implementing changes in accounting standards or adequately accounting after adoption could cause us to fail to meet our financial reporting obligations, which could result in regulatory discipline and harm investors' confidence in us. We may experience quarterly fluctuations in our operating results due to a number of factors, which makes our future results difficult to predict and could cause our operating results to fall below expectations. Our quarterly operating results have fluctuated in the past and we expect them to fluctuate in the future due to a variety of factors, many of which are outside of our control. As a result, our past results may not be indicative of our future performance and comparing our operating results on a period-to-period basis may not be meaningful. In addition to the other risks described herein, factors that may affect our quarterly operating results include:

- the amount and timing of completion of application development services and other service-related engagements;
- changes in spending on subscriptions, services and application transactions media offerings and services by our current or prospective customers;
- ~~our ability to scale and expand the Lyte business;~~ pricing our technology, ~~product~~ **products**, and services effectively so that we are able to attract and retain customers without compromising our operating results;
- one-time, non-recurring revenue events;
- attracting new customers and increasing our existing customers' use of our technology offerings and services;
- the mix between new contracts and renewals of existing contracts;
- customer renewal rates and the amounts for which agreements are renewed;
- ~~seasonality and its effect on customer demand for Lyte personal computers;~~ **seasonality and**
- awareness of our brand;
- changes in the competitive dynamics of our market, including consolidation among competitors or customers and the introduction of new technologies and technology enhancements;
- our ability to manage our existing business and future growth;
- unforeseen costs and expenses related to the expansion of our business, operations and infrastructure, including disruptions in our hosting network infrastructure and privacy and data security;
- customer delays in purchasing decisions in anticipation of new products or product enhancements by us or our competitors;
- budgeting cycles of our customers;
- changes in the competitive dynamics of our market, including consolidation among competitors or customers;
- the amount and timing of payment for operating expenses, particularly research and development and sales and marketing expenses (including marketing events and commissions and bonuses associated with performance) and employee benefit expenses;
- changes to the commission plans, quotas and other compensation related metrics for our sales representatives;
- the amount and timing of non-cash expenses, including stock-based compensation, goodwill impairments and other non-cash charges;
- the amount and timing of costs associated with recruiting, training and integrating new employees;
- the amount and timing of cash collections from our customers and the mix of quarterly and annual billings;
- unforeseen costs and expenses related to the expansion of our business, operations and

infrastructure; • changes in the levels of our capital expenditures; • foreign currency exchange rate fluctuations; and • general economic and political conditions. We may not be able to accurately forecast the amount and mix of future technology, products and services, size or duration of contracts, revenue and expenses and, as a result, our operating results may fall below our estimates. We could be held liable for damages or our reputation could suffer from security breaches or disclosure of confidential information or personal data. ~~In the normal course of business as a seller of personal computers via the internet, we obtain large amounts of personal data, including credit and debit card information.~~ We are also dependent on technology networks and systems to process, transmit and securely store electronic information and to communicate among our locations and with our customers. Security breaches of this infrastructure could lead to shutdowns or disruptions of our systems and potential loss or unauthorized disclosure of confidential information or data, including personal data. In addition, many of our engagements involve projects that are critical to the operations of our customers' businesses. The theft and / or unauthorized use or publication of our, or our customers', confidential information or other proprietary business information as a result of such an incident could adversely affect our competitive position and reduce marketplace acceptance of our products and services. Any failure in the networks or computer systems used by us or our customers could result in a claim for substantial damages against us and significant reputational harm, regardless of our responsibility for the failure. In addition, we often have access to or are required to manage, utilize, collect and store sensitive or confidential customer or employee data, including personal data. As a result, we are subject to numerous U. S. and non- U. S. laws and regulations designed to protect this information, such as the European Union' s GDPR and various U. S. federal and state laws governing the protection of personal data. If any person, including any of our employees, negligently disregards or intentionally breaches controls or procedures with which we are responsible for complying with respect to such data, or otherwise mismanages or misappropriates that data, or if unauthorized access to or disclosure of data in our possession or control occurs, we could be subject to liability and penalties in connection with any violation of applicable privacy laws and / or criminal prosecution, as well as significant liability to our customers or our customers' clients for breaching contractual confidentiality and security provisions or privacy laws. These risks will increase as we continue to grow our cloud- based product offerings and services and store and process increasingly large amounts of our customers' confidential information and data and host or manage parts of our customers' businesses, especially in industries involving particularly sensitive data such as the healthcare industry which we serve. The loss or unauthorized disclosure of sensitive or confidential customer or employee data, including personal data, whether through breach of computer systems, systems failure, employee negligence, fraud or misappropriation, or otherwise, could damage our reputation and cause us to lose customers. Similarly, unauthorized access to or through our information systems and networks or those we develop or manage for our customers, whether by our employees or third parties, could result in negative publicity, legal liability and damage to our reputation, which could in turn harm our business, results of operations, or financial condition. If we cause disruptions in our customers' businesses or provide inadequate service, our customers may have claims for substantial damages against us, which could cause us to lose customers, have a negative effect on our corporate reputation and adversely affect our results of operations. If we make errors in the course of delivering services to our customers or fail to consistently meet our service- level obligations to or other service requirements of our customers, such errors or failures could disrupt our customers' business, which could result in a reduction in our revenue or a claim for substantial damages against us. In addition, a failure or inability by us to meet a contractual requirement could subject us to penalties, cause us to lose customers or damage our brand or corporate reputation and limit our ability to attract new business. The services we provide are often critical to our customers' businesses. Certain of our customer contracts require us to comply with security obligations including maintaining network security and backup data, ensuring our network is virus free, maintaining business continuity planning procedures and ensuring our employees conduct their job functions with a high level of integrity. Any failure in a customer' s system, failure of our data center, cloud or other offerings, or breach of security relating to the services we provide to a customer could damage our reputation or result in a claim for substantial damages against us. Any significant failure of our equipment or systems, or any major disruption to basic infrastructure in the locations in which we operate, such as power and telecommunications, could impede our ability to provide services to our customers, have a negative impact on our reputation, cause us to lose customers and adversely affect our results of operations. Under our customer contracts, our liability for breach of our obligations is in some cases limited pursuant to the terms of the contract. Such limitations may be unenforceable or otherwise may not protect us from liability for damages. In addition, certain liabilities, such as claims of third parties for which we may be required to indemnify our customers, are generally not limited under our contracts. The successful assertion of one or more large claims against us in amounts greater than those covered by our current insurance policies could harm our business, results of operations, or financial condition. Even if such assertions against us are unsuccessful, we may incur reputational harm and substantial legal fees. Our technology offerings and services could infringe upon the intellectual property rights of others or we might lose our ability to use intellectual property of others. We cannot be sure that our brand, software solution and ~~personal computing~~ products and services do not infringe upon the intellectual property rights of third parties, who could claim that we or our customers are infringing upon their intellectual property rights. These claims could harm our reputation, cause us to incur substantial costs or prevent us from offering some products or services in the future, or require us to rebrand. Any related proceedings could require us to expend significant resources over an extended period of time. In most of our contracts, we agree to indemnify our customers for expenses and liabilities resulting from claimed infringements of the intellectual property rights of third parties. In some instances, the amount of these indemnities could be greater than the revenue we receive from the customer. Any claims or litigation in this area, regardless of merit, could be time- consuming and costly, damage our reputation, and / or require us to incur additional costs to obtain the right to continue to offer a product, service or solution to our customers. If we cannot secure this right at all or on reasonable terms, or, alternatively, substitute a non- infringing technology, our business, results of operations, or financial condition could be harmed. Similarly, if we are unsuccessful in defending a trademark claim, we could be forced to re- brand, which could harm our business, results of operations or financial condition. Additionally, in recent years,

individuals and firms have purchased intellectual property assets where their sole or primary purpose is to assert claims of infringement against technology providers and customers that use such technology. Any such action naming us or our customers could be costly to defend or lead to an expensive settlement or judgment against us. Moreover, such an action could result in an injunction being ordered against our customer or our own services or operations, causing further damages. If we are unable to protect our intellectual property rights from unauthorized use or infringement by third parties, our business could be adversely affected. Our success depends, in part, upon our ability to protect our proprietary methodologies and other intellectual property. Existing laws offer only limited protection of our intellectual property rights and the protection in some countries in which we operate or may operate in the future may be very limited. We rely upon a combination of confidentiality policies, nondisclosure and other contractual arrangements and trade secret, copyright and trademark laws to protect our intellectual property rights. These laws are subject to change at any time and could further limit our ability to protect our intellectual property. There is uncertainty concerning the scope of available intellectual property protection for software and business methods, which are fields in which we rely on intellectual property laws to protect our rights. The validity and enforceability of any intellectual property rights we obtain may be challenged by others and, to the extent we have enforceable intellectual property rights, those intellectual property rights may not prevent competitors from reverse engineering our proprietary information or independently developing technology, products and services similar to or duplicative of us. Further, the steps we take in this regard might not be adequate to prevent or deter infringement or other misappropriation of our intellectual property by competitors, former employees or other third parties and we might not be able to detect unauthorized use of, or take appropriate and timely steps to enforce, our intellectual property rights. Enforcing our intellectual property rights might also require considerable time, money and oversight and we may not be successful in enforcing our rights. If we are unable to collect our receivables from, or bill our unbilled services to, our customers, our business, results of operations or financial condition could be adversely affected. Our business depends on our ability to successfully obtain payment from our customers of the amounts they owe us for products sold or services performed. We typically evaluate the financial condition of our customers and usually bill and collect on relatively short cycles. We maintain allowances against receivables and unbilled services for which we believe collection is doubtful. Actual losses on customer balances could differ from those that we currently anticipate and, as a result, we might need to adjust our allowances. There is no guarantee that we will accurately assess the creditworthiness of our customers. Macroeconomic conditions could also result in financial difficulties for our customers, including limited access to the credit markets, insolvency, or bankruptcy, and, as a result, could cause customers to delay payments to us, request modifications to their payment arrangements that could increase our receivables balance, or default on their payment obligations to us. Timely collection of customer balances also depends on our ability to perform obligations to customers and bill and collect our contracted revenue. If we are unable to meet our contractual requirements, we might experience delays in collection of and / or be unable to collect our customer balances and if this occurs, our business, results of operations, or financial condition could be adversely affected. In addition, if we experience an increase in the time to bill and collect for our services, our cash flows could be adversely affected. Increased costs of labor and employee health and welfare benefits may adversely impact our results of operations. Labor related costs represent a significant portion of our expenses and we have experienced increases compensation related expenses. Additional increases in labor costs, for example, as a result of increased competition for skilled labor, or employee benefit costs, such as healthcare costs or otherwise, could further impact our business, results of operations or financial condition. Our global operations are subject to complex risks, some of which might be beyond our control. Although international revenue currently represents a small portion of our revenue, our business from outside of the United States may expand in the future as we expand our international presence, including but not limited to our subscription, application transaction, ~~Lyte personal computing~~, services and digital asset offerings. As a result, we may be subject to risks inherently associated with international operations, including risks associated with foreign currency exchange rate fluctuations, difficulties in enforcing intellectual property and / or contractual rights, the burdens of complying with a wide variety of foreign laws and regulations, potentially adverse tax consequences, tariffs, quotas and other barriers, potential difficulties in collecting accounts receivable, international hostilities, terrorism and natural disasters. Expansion of international operations also increases the likelihood of potential or actual violations of domestic and international anti- corruption laws, such as the Foreign Corrupt Practices Act, or of U. S. and international export control and sanctions regulations. We may also face difficulties integrating any new facilities in different countries into our existing operations, as well as integrating employees that we hire in different countries into our existing corporate culture. If we are unable to manage the risks of our global operations, our business, results of operations, or financial condition could be adversely affected. Economic uncertainties or downturns in the global economy or the industries in which our customers operate could disproportionately affect the demand for our products and services solutions and negatively impact our operating results. Global economic conditions could experience a significant downturn causing market volatility widespread uncertainty. As a result, we and our customers could find it extremely difficult to accurately forecast and plan future business activities. In addition, these conditions could cause our customers or prospective customers to reduce their information technology and other budgets, which could decrease corporate and individual spending on our product and service offerings, resulting in delayed and lengthened sales cycles, a decrease in new customer acquisition and / or loss of customers. Furthermore, during challenging economic times, our customers may face issues with their cash flows and with gaining timely access to sufficient credit or obtaining credit on reasonable terms, which could impair their ability to make timely payments to us, impact customer renewal rates and adversely affect our revenue. If such conditions occur, we may be required to increase our reserves, allowances for doubtful accounts and write- offs of accounts receivable and our operating results would be harmed. In addition, a downturn in the technology- related spend by our customers may disproportionately affect us. We cannot predict the timing, strength or duration of any economic slowdown or recovery, whether global, regional or within specific markets. If the conditions of the global economy or markets in which we operate worsen, our business could be harmed. In addition, even if the global economy does not worsen or improves, the market for product and service offerings may not experience growth or we

may not experience growth. If platform subscription renewal rates decrease, or we do not accurately predict subscription renewal rates, our future revenue and operating results may be harmed. Our customers have no obligation to renew their subscriptions for our solutions after the expiration of their subscription period, which generally ranges from one to three years. In addition, our customers may renew for lower subscription amounts or for shorter contract lengths. We may not accurately predict renewal rates for our customers. Our renewal rates may decline or fluctuate as a result of a number of factors, including customer usage, pricing changes, number of applications used by our customers, customer satisfaction with our service, increased competition, the acquisition of our customers by other companies and deteriorating general economic conditions. If our customers do not renew their subscriptions for our solutions or decrease the amount they spend with us, our revenue will decline and our business will suffer. If we are unable to attract new customers or sell additional products or services to our existing customers, our revenue growth will be adversely affected. To increase our revenue, we must add new customers, encourage existing customers to renew their subscriptions on terms favorable to us, increase their usage of our solutions and sell additional products, services and functionality to existing customers. As our industry matures, as interactive channels develop further, or as competitors introduce lower cost and / or differentiated products or services that are perceived to compete with ours, our ability to sell and renew based on pricing, technology and functionality could be impaired. In addition, attracting, retaining and growing our relationship with customers may require us to effectively employ different strategies than we have historically used with current customers and we may face challenges in doing so. As a result, we may be unable to renew our agreements with existing customers or attract new customers or new business from existing customers on terms that would be favorable or comparable to prior periods, which could have an adverse effect on our revenue and growth. Because we recognize revenue from application development services as deliverables are transferred to customers and platform subscriptions over the term of the relevant contract, downturns or upturns in sales are not immediately reflected in full in our operating results. We recognize revenue related to application development services upon the transfer of control to the customer of those services. We recognize software subscription revenue over the term of each of our contracts, which, generally ranges from one to three years. As a result, much of the revenue we report each quarter results from contracts entered into during previous quarters. Consequently, a shortfall in demand for our professional services and software solutions or a decline in new, expanded or renewed contracts in any one quarter may not significantly reduce our revenue for that quarter but could negatively affect our revenue in the future. Accordingly, the effect of significant downturns in new or expanded sales or renewals of our professional services or software license solutions will not be reflected in full in our operating results until future periods. Our revenue recognition model also makes it difficult for us to rapidly increase our revenue through additional sales in any period. If we fail to forecast our revenue accurately, or if we fail to match our expenditures with corresponding revenue, our operating results could be adversely affected. The lengthy sales cycle for the evaluation and implementation of our platform software and service solutions, which typically extends for several months, may cause us to experience a delay between increasing operating expenses for such sales efforts, and, upon successful sales, the generation of corresponding revenue. Accordingly, we may be unable to prepare accurate internal financial forecasts or replace anticipated revenue that we do not receive as a result of delays arising from these factors. As a result, our operating results in future reporting periods may be significantly below the expectations of the public market, equity research analysts or investors, which could harm the price of our common stock. The length and unpredictability of the sales cycle for our technology, products and services could delay new sales and cause our revenue and cash flows for any given quarter to fail to meet our projections or market expectations. The sales cycle between our initial contact with a potential customer and the signing of a contract to provide technology, products and services varies. As a result of the length and unpredictability of the sales cycle, we have a limited ability to forecast the timing of sales. A delay in or failure to complete transactions could harm our business and financial results and could cause our financial results to vary significantly from quarter to quarter. Our sales cycle varies widely, reflecting differences in our potential customers' decision-making processes, procurement requirements and budget cycles and is subject to significant risks over which we have little or no control, including: • our customers' budgetary constraints and priorities; • the timing of our customers' budget cycles; • the impact of the COVID- 19 pandemic and related disruptions on our customers; and • the length and timing of customers' approval processes. If we fail to detect advertising fraud or other actions that impact our advertising campaign performance, we could harm our reputation with advertisers or agencies, which could cause our revenue and business to suffer. Our advertising business relies on our ability to deliver successful and effective advertising campaigns. Some of those campaigns may experience fraudulent and other invalid impressions, clicks or conversions that advertisers may perceive as undesirable, such as non- human traffic generated by machines that are designed to simulate human users and artificially inflate user traffic on websites. These activities could overstate the performance of any given advertising campaign and could harm our reputation. It may be difficult for us to detect advertising- related fraud and other malicious activity because we do not own content and rely in part on our digital media partners to control such activity. These risks become more pronounced as the digital video industry shifts to programmatic buying. Both governmental and industry self- regulatory bodies have increased their scrutiny and awareness of and have taken recent actions to address advertising- related fraud and other malicious activity. While we routinely review the campaign performance, such reviews may not detect or prevent advertising- related fraud or malicious activity. If we fail to detect or prevent fraud or other malicious activity, the affected advertisers may experience or perceive a reduced return on their investment and our reputation may be harmed. High levels of fraud or malicious activity could lead to dissatisfaction with our solutions, refusals to pay, prompt refund or future credit demands or withdrawal of future business. In addition, advertisers increasingly rely on third party vendors to measure campaigns against audience guarantee, viewability and other requirements and to detect fraud. If we are unable to successfully integrate our technology with such vendors, or our measurement and fraud detection differs from their findings, our customers could lose confidence in our solutions, we may not get paid for certain campaigns and our revenues could decrease. If we fail to detect fraud or other malicious activities that impact the performance of our brand advertising campaigns, we could harm our reputation with our advertisers or agencies and our revenue and business

could suffer. Further, if advertisers demand fraud- free inventory, our supply could fall drastically, making it impossible to sustain our current business model. If we do not maintain and grow a critical mass of advertisers and distribution partners, the value of our services could be adversely affected. Our success depends, in large part, on the maintenance and growth of a critical mass of advertisers and distribution partners. Advertisers will generally seek the most competitive return on investment from advertising and marketing services. Distribution partners will also seek the most favorable payment terms available in the market. Advertisers and distribution partners may change providers or the volume of business with a provider, unless the product and terms are competitive. In this environment, we must compete to acquire and maintain our network of advertisers and distribution partners. If our business is unable to maintain and grow our base of advertisers, our current distribution partners may be discouraged from continuing to work with us and this may create obstacles for us to enter into agreements with new distribution partners. Our business also depends in part on certain of our large reseller partners and agencies to grow their base of advertisers, as these advertisers become increasingly important to our business and our ability to attract additional distribution partners and opportunities. Similarly, if our distribution network does not grow and does not continue to improve over time, current and prospective advertisers and distribution partners and agencies may reduce or terminate this portion of their business with us. Any decline in the number of advertisers and distribution partners could adversely affect the value of our services. Any inability to deliver successful mobile advertising campaigns due to technological challenges or an inability to persuasively demonstrate success will prevent us from growing or retaining our current advertiser base. It is critical that we deliver successful mobile advertising campaigns on behalf of our advertisers. Factors that may adversely affect our ability to deliver successful mobile advertising campaigns include:

- Inability to accurately process data and extract meaningful insights and trends, such as the failure to accurately process data to place ads effectively at digital media properties;
- Faulty or out- of- date algorithms that fail to properly process data or result in inability to capture brand- receptive audiences at scale;
- Technical or infrastructure problems causing digital video not to function, digital video or impressions to not display properly or be placed next to inappropriate context;
- Inability to control video completion rates, maintain user attention or prevent end users from skipping advertisements;
- Inability to detect and prevent advertising fraud and other malicious activity;
- Inability to fulfill audience guarantee or viewability requirements of advertiser customers;
- Inability to integrate with third parties that measure campaigns against audience guarantee or viewability requirements;
- Unavailability of campaign data for advertisers to effectively measure the success of their campaigns; and
- Access to quality inventory at sufficient volumes to meet the needs of advertisers’ campaigns.

Our ability to deliver successful advertising campaigns also depends on the continuing and uninterrupted performance of our own internal and third party managed systems, which we utilize to place ads, monitor the performance of advertising campaigns and manage advertising inventory. Our revenue depends on the technological ability of our solutions to deliver ads and measure them. Sustained or repeated system failures that interrupt our ability to provide advertising campaigns and solutions to customers, including security breaches and other technological failures affecting our ability to deliver ads quickly and accurately and to collect and process data in connection with these ads, could significantly reduce the attractiveness of our solutions to advertisers, negatively impact operations and reduce our revenue. Our systems are vulnerable to damage from a variety of sources, including telecommunications failures, power outages, malicious human acts and natural disasters. In addition, any steps we take to increase the reliability and redundancy of systems may be expensive and may not be successful in preventing system failures. Also, advertisers may perceive any technical disruption or failure in ad performance on digital media partners’ platforms to be attributable to us and our reputation could similarly suffer, or advertisers may seek to avoid payment or demand future credits for disruptions or failures, any of which could harm our business and results of operations. If we are unable to deliver successful advertising campaigns, our ability to attract potential advertisers and retain and expand business with existing advertisers could be harmed and our business, financial condition and operating results could be adversely affected. We may be unable to deliver advertising in a context that is appropriate for mobile advertising campaigns, which could harm our reputation and cause our business to suffer. It is very important to advertisers that their brand advertisements not be placed in or near content that is unlawful or could be deemed offensive or inappropriate by their customers. Unlike advertising on television, where the context in which an advertiser’ s ad will appear is highly predictable and controlled, digital media content is more unpredictable and we cannot guarantee that digital video advertisements will appear in a context that is appropriate for the brand. We rely on continued access to premium ad inventory in high- quality and brand- safe environments, viewable to consumers across multiple screens. If we are not successful in delivering context appropriate advertising campaigns for advertisers, our reputation will suffer and our ability to attract potential advertisers and retain and expand business with existing advertisers could be harmed, or our customers may seek to avoid payment or demand future credits for inappropriately placed advertisements, any of which could harm our business, financial condition and operating results. Activities of our application transaction customers with which we do business could damage our reputation or give rise to legal claims against us. We do not monitor or have the ability to control whether our advertising customers’ advertising of their products and solutions complies with federal, state, local and foreign laws. Failure of our advertising customers to comply with federal, state, local or foreign laws or our policies could damage our reputation and expose us to liability under such laws. We may also be liable to third parties for content in the ads we deliver if the content involved violates copyrights, trademarks or other intellectual property rights of third parties or if the content is defamatory, unfair and deceptive or otherwise in violation of applicable laws. A third party or regulatory authority may file a claim against us even if our advertising customer has represented that its ads are lawful and that they have the right to use any copyrights, trademarks or other intellectual property included in an ad. Any of these claims could be costly and time- consuming to defend and could also hurt our reputation within the advertising industry. Further, if we are exposed to legal liability, we could be required to pay substantial fines or penalties, redesign our business methods, discontinue some of our solutions or otherwise expend significant resources. Similarly, we do not monitor or have the ability to control whether digital media property owners with which we do business are in compliance with applicable laws and regulations, or intellectual property rights of others and their failure to do so could expose us to legal liability. Third parties may

claim that we should be liable to them for content on digital media properties if the content violates copyrights, trademarks or other intellectual property rights of third parties or if the content is defamatory, unfair and deceptive, or otherwise in violation of applicable laws or other brand protection measures. These risks become more pronounced as the digital video industry shifts to programmatic buying. Our business depends on our ability to collect and use data to deliver ads and to disclose data relating to the performance of our ads; any limitation on these practices could significantly diminish the value of our solutions and cause us to lose customers and revenue. When we deliver an ad to an internet- connected device, we are able to collect information about the placement of the ad and the interaction of the device user with the ad, such as whether the user visited a landing page or watched a video. We are also able to collect information about the user' s IP address, device, mobile location and some demographic characteristics. We may also contract with one or more third parties to obtain additional pseudonymous information about the device user who is viewing a particular ad, including information about the user' s interests. As we collect and aggregate this data provided by billions of ad impressions, we analyze it in order to optimize the placement and scheduling of ads across the advertising inventory provided to us by digital media properties. Although the data we collect does not enable us to determine the actual identity of any individual, our customers or end users might decide not to allow us to collect some or all of the data or might limit our use of it. For example, a digital media partner might not agree to provide us with data generated by interactions with the content on its apps, or device users might not consent to share their information about device usage. Any limitation on our ability to collect data about user behavior and interaction with content could make it more difficult for us to deliver effective advertising programs that meet the demands of our customers. This in turn could harm our revenue and impair our business. Although our contracts with advertisers generally permit us to aggregate data from advertising campaigns, sometimes an advertiser declines to permit the use of this data, which limits the usefulness of the data that we collect. Furthermore, advertisers may request that we discontinue using data obtained from their campaigns that have already been aggregated with other advertisers' campaign data. It would be difficult, if not impossible, to comply with these requests and complying with these kinds of requests could cause us to spend significant amounts of resources. Interruptions, failures or defects in our data collection, mining, analysis and storage systems, as well as privacy concerns and regulatory restrictions regarding the collection, use and processing of data, could also limit our ability to aggregate and analyze the data from our customers' advertising campaigns. If that happens, we may not be able to optimize the placement of advertising for the benefit of our advertising customers, which could make our solutions less valuable, and, as a result, we may lose customers and our revenue may decline. Our business practices with respect to data could give rise to liabilities, restrictions on our business or reputational harm as a result of evolving governmental regulation, legal requirements or industry standards relating to consumer privacy and data protection. In the course of providing our solutions, we collect, transmit and store information related to and seeking to correlate internet- connected devices, user activity and the ads we place. Federal, state and international laws and regulations govern the collection, use, processing, retention, sharing and security of data that we collect across our advertising solutions. We strive to comply with all applicable laws, regulations, policies and legal obligations relating to privacy and data collection, processing use and disclosure. However, the applicability of specific laws may be unclear in some cases and domestic and foreign government regulation and enforcement of data practices and data tracking technologies is expansive, not clearly defined and rapidly evolving. In addition, it is possible that these requirements may be interpreted and applied in a manner that is new or inconsistent from one jurisdiction to another and may conflict with other rules or our practices. Any actual or perceived failure by us or our customers or partners to comply with U. S. federal, state or international laws, including laws and regulations regulating privacy, data, security or consumer protection, or disclosure or unauthorized access by third parties to this information, could result in investigations, proceedings or actions against us by governmental entities, competitors, private parties or others. Any investigations, proceedings or actions against us alleging violations of consumer or data protection laws or asserting privacy- related theories could hurt our reputation, force us to spend significant amounts in defense of these proceedings, distract our management, increase our costs of doing business, adversely affect the demand for our solutions and ultimately result in the imposition of monetary liability. We may also be contractually liable to indemnify and hold harmless our customers from the costs or consequences of litigation resulting from using our solutions or from the unauthorized disclosure of confidential information, which could damage our reputation among our current and potential customers, require significant expenditures of capital and other resources and cause us to lose business and revenue. The regulatory framework for privacy issues is evolving worldwide. It is possible that new laws and regulations will be adopted in the United States and internationally, or existing laws and regulations may be interpreted in new ways, that could affect our business, particularly with regard to collection or use of data to target ads and communication with consumers and the international transfer of data from Europe to the U. S. In particular, the GDPR extends the jurisdictional scope of European data protection law. As a result, we are subject to the GDPR when we provide our targeting services in Europe. The GDPR imposes stricter data protection requirements that may necessitate changes to our services and business practices. Potential penalties for non- compliance with the GDPR include administrative fines of up to 4 % of annual worldwide revenue. While we have not collected data that is traditionally considered identifiable personal data, such as name, email address, physical address, phone numbers or social security numbers, we typically collect and store IP addresses, geolocation information and device or other persistent identifiers that are or may be considered personal data in some jurisdictions or otherwise may be subject to applicable laws or regulations. For example, some jurisdictions in the EU regard IP addresses as personal data and certain regulators have advocated for including IP addresses, GPS- level geolocation data and unique device identifiers as personal data. Moreover, with the effectiveness of the CCPA in California on January 1, 2020, the use of geolocation gathering in California should be approached with care to ensure compliance. Furthermore, the GDPR makes clear that online identifiers (such as IP addresses and other device identifiers) will be treated as " personal data " going forward and therefore subject to stricter data protection rules. Evolving definitions of personal data within the United States, European Union and elsewhere, especially relating to the classification of IP addresses, machine or device identifiers, geolocation data and other such information, may cause us to

change our business practices, diminish the quality of our data and the value of our solution and hamper our ability to expand our offerings. Complying with any new legal requirements relating to privacy and data protection could force us to incur substantial costs or require us to change our business practices in a manner that could reduce our revenue or compromise our ability to effectively pursue our growth strategy. Our failure to comply with evolving interpretations of applicable laws and regulations relating to privacy and data protection, or to adequately protect personal data, could result in enforcement action against us or reputational harm, which could have a material adverse impact on our business, financial condition and results of operations. In addition to compliance with applicable laws and regulations, we voluntarily participate in trade associations and industry self-regulatory groups that promulgate best practices or codes of conduct addressing the provision of internet advertising. We could be adversely affected by changes to these guidelines and codes in ways that are inconsistent with our practices or in conflict with the laws and regulations of U. S. or international regulatory authorities. For instance, new guidelines, codes, or interpretations, by self-regulatory organizations or government agencies, may require additional disclosures, or additional consumer consents, such as “opt-in” permissions to share, link or use data, such as health data obtained from third parties, in certain ways. If we fail to abide by, or are perceived as not operating in accordance with, industry best practices or any industry guidelines or codes with regard to privacy, our reputation may suffer and we could lose relationships with advertisers and digital media partners. Our agreements with partners, employees and others may not adequately prevent disclosure of trade secrets and other proprietary technology and information. We rely in part on confidentiality agreements and other restrictions with our customers, partners, employees, consultants and others to protect our proprietary technology and other proprietary information. These agreements may not effectively prevent disclosure of confidential information and may not provide an adequate remedy in the event of unauthorized disclosure of confidential information. Despite our efforts to protect our proprietary technology, processes and methods, unauthorized parties may attempt to misappropriate, reverse engineer or otherwise obtain and use them. Moreover, policing unauthorized use of our trade secrets, technologies, products, intellectual property and proprietary information is difficult, expensive and time-consuming, particularly in foreign countries where applicable laws may be less protective of intellectual property rights than those in the United States and where enforcement mechanisms for intellectual property rights may be weak. Costly and time-consuming litigation could be necessary to enforce and determine the scope of our proprietary rights and failure to obtain or maintain trade secret protection could adversely affect our competitive business position. We could be subject to additional income tax liabilities. We are generally subject to income taxes in the United States. We use significant judgment in evaluating our worldwide income-tax provision. In the ordinary course of business, we conduct many transactions for which the ultimate tax determination is uncertain. For example, our effective tax rates could be adversely affected by changes in the valuation of our deferred tax assets and liabilities or by changes in the relevant tax, accounting and other laws, regulations, principles and interpretations. We are subject to audit in various jurisdictions, and such jurisdictions may assess additional income tax against us. Although we believe our tax estimates are reasonable, the final determination of tax audits and any related litigation could be materially different from our historical income-tax provisions and accruals. The results of an audit or litigation could have a material effect on our operating results or cash flows in the period or periods for which that determination is made. Taxing authorities may successfully assert that we should have collected or in the future should collect sales and use, value-added or similar taxes, and we could be subject to liability with respect to past or future sales, which could adversely affect our operating results. We do not collect sales and use, value-added or similar taxes in all jurisdictions in which we have sales and for all products and services that we sell, based on our belief that such taxes are either not applicable or an exemption from such taxes applies. Sales and use, value-added and similar tax laws and rates vary greatly by jurisdiction. Certain jurisdictions in which we do not collect such taxes may assert that such taxes are applicable, which could result in tax assessments, penalties and interest, and we may be required to collect such taxes in the future, including as a result of a change in law. Such tax assessments, penalties and interest or future requirements may adversely affect our business, financial condition and results of operations. Our net operating loss carryforwards may expire unutilized or underutilized, which could prevent us from offsetting future taxable income. We may be limited in the portion of net operating loss carryforwards that we can use in the future to offset taxable income for U. S. Federal income tax purposes, including any limitations that may be imposed under Section 382 of the Code as a result of our past ownership changes or an ownership change in connection with our reverse merger and recapitalization on December 26, 2018. As of December 31, 2022-2023, we had federal net operating loss carryforwards of approximately \$ 195-236.0-7 million, of which \$ 109-151.4-0 million will never expire and \$ 85.7 million will expire at various dates beginning in 2030. At December 31, 2022-2023, we had state and local net operating loss carryforwards of approximately \$ 95-133.9-1 million, with the majority beginning to expire in 2030 if not utilized. We periodically assess the likelihood that we will be able to recover net deferred tax assets. We consider all available evidence, both positive and negative, including historical levels of income, expectations and risks associated with estimates of future taxable income and ongoing prudent and feasible profits. As a result of this analysis of all available evidence, both positive and negative, we concluded that a valuation allowance against our net U. S. deferred tax assets should be applied as of December 31, 2022-2023. To the extent we determine that all or a portion of our valuation allowance is no longer necessary, we will recognize an income tax benefit in the period this determination is made for the reversal of the valuation allowance. Once the valuation allowance is eliminated or reduced, its reversal will no longer be available to offset our current tax provision. These events could have a material impact on our reported results of operations. Our large customers have substantial negotiating leverage, which may require that we agree to terms and conditions that may have an adverse effect on our business. Our large customers have substantial purchasing power and leverage in negotiating contractual arrangements with us. These customers may request for us to develop additional features without providing us additional revenue, may require penalties for failure to deliver such features, may seek discounted product or service pricing and may seek more favorable contractual terms. As we sell more products and services to this class of customer, we may be required to agree to such terms and conditions. Such large customers also have substantial leverage in negotiating the

resolution of any disagreements or disputes that may arise between us. Any of the foregoing factors could have a material adverse effect on our business, financial condition and results of operations. If some of our customers experience financial distress or suffer disruptions in their business, their weakened financial position could negatively affect our own financial position and results. We have a diverse customer base and, at any given time, one or more customers may experience financial distress, file for bankruptcy protection, go out of business, or suffer disruptions in their businesses. If a customer with whom we do a substantial amount of business experiences financial difficulty or suffers disruptions in its business, it could delay or jeopardize the collection of accounts receivable, result in significant reductions in services provided by us and may have a material adverse effect on our business, financial condition and results of operations. If we are unable to obtain and maintain adequate insurance, our financial condition could be adversely affected in the event of uninsured or inadequately insured loss or damage. Our ability to effectively recruit and retain qualified officers and directors may also be adversely affected if we experience difficulty in maintaining adequate directors' and officers' liability insurance. We may not be able to obtain and maintain insurance policies on terms affordable to us that would adequately insure our business and property against damage, loss or claims by third parties. To the extent our business or property suffers any damages, losses or claims by third parties that are not covered or adequately covered by insurance, our financial condition may be materially adversely affected. We currently have directors' and officers' liability insurance. If we are unable to maintain sufficient insurance as a public company to cover liability claims made against our officers and directors, we may not be able to retain or recruit qualified officers and directors to manage our company, which could have a material adverse effect on our business, financial condition and results of operations. The requirements of being a public company may strain our systems and resources, divert management's attention and be costly. As a public company, we are subject to the reporting requirements of the Exchange Act, the Sarbanes- Oxley Act of 2002, the Dodd- Frank Wall Street Reform and Consumer Protection Act and the rules and regulations of Nasdaq Capital Market. The requirements of these rules and regulations will increase our legal, accounting and financial compliance costs, will make some activities more difficult, time consuming and costly and may also place undue strain on our personnel, systems and resources. The Exchange Act requires, among other things, that we file annual, quarterly and current reports with respect to our business and results of operations. We are required to maintain various other control and business systems related to our equity, finance, treasury, information technology, other recordkeeping systems and other operations. As a result of these maintenance obligations, management's attention may be diverted from other business concerns, which could adversely affect our business. Furthermore, we supplement our internal team with third party software and system providers to support our reporting obligations to achieve effective internal controls. To the extent we do not sufficiently manage third party service providers, and they fail to provide us with adequate service, we may not effectively manage our future growth which may result in ineffective internal controls over financial reporting and an increased cost of compliance. The Sarbanes- Oxley Act requires, among other things, that we maintain effective disclosure controls and procedures and internal control over financial reporting. In addition, changing laws, regulations and standards relating to corporate governance and public disclosure are creating uncertainty for public companies, increasing legal and financial compliance costs and making some activities more time consuming. These laws, regulations and standards are subject to varying interpretations, in many cases due to their lack of specificity, and as a result, their application in practice may evolve over time as new guidance is provided by regulatory and governing bodies. This could result in continuing uncertainty regarding compliance matters and higher costs necessitated by ongoing revisions to disclosure and governance practices. We intend to invest resources to comply with evolving laws, regulations and standards, and this investment may result in increased general and administrative expenses and a diversion of management's time and attention from revenue- generating activities to compliance activities. If our efforts to comply with new laws, regulations and standards differ from the activities intended by regulatory or governing bodies due to ambiguities related to their application and practice, regulatory authorities may initiate legal proceedings against us, and our business may be adversely affected. In addition, compliance with new laws, rules and regulations would make it more difficult and more expensive for us to obtain director and officer liability insurance, and we may be required to incur substantial costs to maintain appropriate levels of coverage. These factors could also make it more difficult for us to attract and retain qualified executive officers and members of our board of directors, particularly members to serve on our audit committee. As a result of disclosure of information in this Annual Report and in other filings required of a public company, our business and financial condition will become more visible, which we believe may result in threatened or actual litigation by third parties. If such claims are successful, our business and results of operations could be adversely affected, and even if the claims do not result in litigation or are resolved in our favor, these claims, and the time and resources necessary to resolve them, could divert the time and resources of our management and adversely affect our business and results of operations. We are a "smaller reporting company" and, because we have opted to use the reduced reporting requirements available to us, our common stock may be less attractive to investors. We are a "smaller reporting company" as defined by the SEC. For as long as we continue to be a smaller reporting company, we may take advantage of exemptions from various reporting requirements that are applicable to other public companies that are not smaller reporting companies, including not being required to comply with auditor attestation requirements of Section 404 of the Sarbanes- Oxley Act and reduced disclosure obligations regarding executive compensation and corporate governance in our periodic reports and proxy statements. We cannot predict if investors will find our common stock less attractive because we may rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile. Our business is subject to the risks of natural disasters, public health crises, political crises and other natural catastrophic events and to interruption by man- made problems such as computer viruses or terrorism. Our systems and operations are vulnerable to damage or interruption from earthquakes, fires, floods, power losses, telecommunications failures, terrorist attacks, acts of war, human errors, break- ins and similar events. For example, a significant natural disaster, such as a tornado, earthquake, hurricane, mudslides, fire, flood, snow, ice or extreme temperatures could have a material adverse effect on our business, results of operations and financial condition and our

insurance coverage may be insufficient to compensate us for losses that may occur. We have an office and at least one data center located in California, a region known for earthquakes and mudslides. A significant amount of our development and ad operations work is also located in California. We also have corporate offices in Texas and Florida, both of which are susceptible to floods, hurricanes and extreme temperatures, and Texas is an area that is vulnerable to heavy winds, ice, snow and tornadoes. In addition, acts of terrorism, which may be targeted at metropolitan areas that have higher population density than rural areas, could cause disruptions in our or our advertisers' businesses or the economy as a whole. Our servers may also be vulnerable to computer viruses, break-ins, denial-of-service attacks and similar disruptions from unauthorized tampering with our computer systems, which could lead to interruptions, delays, loss of critical data. We may not have sufficient protection or recovery plans in some circumstances, such as natural disasters affecting California, or Texas or Florida. In late 2019, a strain of the coronavirus was reported to have surfaced and spread to the United States. The ongoing extent to which COVID-19 and its variants impact on our results is unknown. As we rely heavily on our data centers, computer and communications systems and the internet to conduct our business and provide high-quality customer service, such disruptions could negatively impact our ability to run our business and either directly or indirectly disrupt our customers' business, which could have a material adverse effect on our business, results of operations and financial condition.

Risks Related to Capitalization Matters, Corporate Governance and Market Volatility We have and may sell additional equity or debt securities or enter into other arrangements to fund our operations, which may result in dilution to our stockholders and impose restrictions or limitations on our business. Future sales or issuances of our common stock, or the perception that such sales could occur, could depress the trading price of our common stock. In February 2022, we filed a shelf registration statement on Form S-3, which was subsequently declared effective by the SEC, pursuant to which we may issue up to \$200 million in common stock, preferred stock, warrants and units, and contained therein was a prospectus supplement in which we may sell up to \$100 million in sales of our common stock deemed to be an "at the market" offering. During 2022-2023, we issued common stock in various sales of our common stock via at-the-market offerings, purchase commitments and public offerings under our shelf registration statement. We also issued shares of common stock to settle outstanding debt obligations and upon exercise of warrants. Additional capital may be needed in the future to continue our planned operations, and we may seek additional funding through a combination of equity offerings, debt financings, strategic alliances, licensing and collaboration arrangements, or other third-party business arrangements. These financing activities may have an adverse effect on our stockholders' rights, the market price of our common stock and on our operations and may require us to relinquish rights to some of our technologies, intellectual property or products, issue additional equity or debt securities, or otherwise agree to terms unfavorable to us. Any sale or issuance of securities pursuant to a registration statement or otherwise may result in dilution to our stockholders and may cause the market price of our stock to decline, and new investors could gain rights superior to our existing stockholders. In addition, any debt financings that we may enter into in the future may impose restrictive covenants or otherwise adversely affect the holdings or the rights of our stockholders, and any additional equity financings will be dilutive to our stockholders. The perception that such sales or issuances may occur could also negatively impact the market price of our common stock. Furthermore, additional equity or debt financing might not be available to us on reasonable terms, if at all.

~~Shares of our common stock may be issued pursuant to the terms of an outstanding warrant, which could cause the price of our common stock to decline. On July 15, 2020 we issued a Series A Senior Convertible Note (a "Series A Note") and a Series B Senior Convertible Note (a "Series B Note," and together with the Series A Note, the "2020 Convertible Notes") to an institutional investor. We paid the 2020 Convertible Notes in full in April 2021. However, in connection with the issuance of the 2020 Convertible Notes, we issued a warrant to the holder. As of December 31, 2022, 2,811,315 shares may be issued under the warrant at an exercise price of \$1.4246 per share. The issuance of these shares will dilute our other equity holders, which could cause the price of our common stock to decline.~~ The failure of financial institutions or transactional counterparties could adversely affect our current and projected business operations and our financial condition and results of operations. On March 10, 2023, Silicon Valley Bank (SVB) was closed by the California Department of Financial Protection and Innovation, which appointed the Federal Deposit Insurance Corporation (FDIC) as receiver. Similarly, on March 12, 2023, Signature Bank and Silvergate Capital Corp. were each swept into receivership. A statement by the Department of the Treasury, the Federal Reserve and the FDIC stated that all depositors of SVB would have access to all of their money after only one business day of closure, including funds held in uninsured deposit accounts. However, there is no guarantee that the U.S. Department of Treasury, FDIC and Federal Reserve Board will provide access to uninsured funds in the future in the event of the closure of other banks or financial institutions in a timely fashion or at all. Although we ~~do did~~ not have any funds deposited with SVB and or Signature Bank, we regularly maintain cash balances with other financial institutions in excess of the FDIC insurance limit. Access to our cash and cash equivalents in amounts adequate to finance our operations could be significantly impaired by the financial institutions with which we have arrangements directly facing liquidity constraints or failures. In addition, investor concerns regarding the U.S. or international financial systems could result in less favorable commercial financing terms, including higher interest rates or costs and tighter financial and operating covenants, or systemic limitations on access to credit and liquidity sources, thereby making it more difficult for us to acquire financing on acceptable terms or at all. Any material decline in available funding or our ability to access our cash and cash equivalents could adversely impact our ability to meet our operating expenses, result in breaches of our contractual obligations or result in violations of federal or state wage and hour laws, any of which could have material adverse impacts on our operations and liquidity. Furthermore, should our customers have relationships with financial institutions that fail, this may result in a delay of collecting outstanding receivables, if collectible at all, which could have a material adverse effect on our business.

~~The SBA may review our Paycheck Protection Program ("PPP") forgiveness application and if the SBA disagrees with our certification we could be subject to penalties and the repayment of our PPP loan, which could negatively impact our business, financial condition and results of operations and prospects. During 2021, we received notification of forgiveness of our \$2.85 million PPP loan received in calendar year 2020. We must retain~~

PPP loan documentation in our files for six years after the date of forgiveness. We believe we met the SBA's certification requirement based on our weakened business operations during the COVID-19 pandemic and small market value. However, no assurance can be given as to the outcome if the SBA re-evaluates our loan certification. The SBA could determine we did not qualify in whole or in part for loan forgiveness. In addition, it is unknown what type of penalties could be assessed against us if the SBA disagrees with our certification. We could be required to repay the PPP loan. Any penalties in addition to the potential repayment of the PPP loan could negatively impact our business, financial condition and results of operations and prospects.

The price of our common stock and warrants has been, and may continue to be, volatile, and you could lose all or part of your investment. Technology stocks have historically experienced high levels of volatility. The trading price and volume of our common stock and warrants have fluctuated, and may continue to fluctuate, substantially due to a variety of factors, including those described in this "Risk Factors" section, many of which are beyond our control and may not be related to our operating performance. These fluctuations could cause you to lose all or part of your investment in our common stock. In addition, if the market for technology stocks or the stock market in general experiences a loss of investor confidence, the trading price of our common stock and / or warrants could decline for reasons unrelated to our business, results of operations or financial condition. The trading price of our common stock and warrants might also decline in reaction to events that affect other companies in our industry even if these events do not directly affect us. In the past, following periods of volatility in the trading price of a company's securities, securities class action litigation has often been brought against that company. If our stock price is volatile, we may become the target of securities litigation. Securities litigation could result in substantial costs and divert our management's attention and resources from our business. This could have an adverse effect on our business, results of operations and financial condition. Specifically, while we cannot state for certainty what circumstances are causing volatility in our stock price, such volatility may be attributable in part to the following factors:

- price and volume fluctuations in the overall stock market from time to time;
- the announcement of new products, solutions or technologies, investments, commercial relationships, acquisitions or other events by us or our competitors;
- changes in how customers perceive the benefits of our products and future offerings;
- the addition or departure of key personnel, including, but not limited to the successful transition of our Chief Executive Officer;
- the public's reaction to our press releases, other public announcements and filings with the SEC;
- sales of large blocks of our common stock or warrants;
- developments concerning intellectual property rights;
- changes in legal, regulatory and enforcement frameworks impacting our products;
- variations in our and our competitors' results of operations;
- whether our results of operations meet the expectations of securities analysts or investors;
- actual or anticipated fluctuations in our quarterly and annual results and those of other public companies in our industry;
- the failure of securities analysts to publish research about us, or shortfalls in our results of operations compared to levels forecast by securities analysts;
- actual or perceived significant data breach involving our products or website;
- litigation involving us, our industry or both;
- governmental or regulatory actions or audits;
- general economic conditions and trends;
- "flash crashes," "freeze flashes" or other glitches that disrupt trading on the securities exchange on which we are listed; and
- major catastrophic events in our domestic and foreign markets, such as, but not limited to, natural disasters, terrorist attacks, cyber-attacks or disease outbreak, epidemic or pandemic, including the ongoing effects of COVID-19 and its variants.

Furthermore, the trading price of our Common Stock has recently been volatile during relatively short time periods. For example, on ~~December 28, 2022~~ **January 12, 2022** **2024** our Common Stock traded at an intraday low of \$ 0.75-08, whereas on ~~February 2, 2023~~ **January 16, 2023-2024** our Common Stock traded at an intraday high of \$ 1.01-49. We believe the volatility in the trading price and price range of our Common Stock may be the result of a number of factors, many of which are outside our control. Any increase in the trading price of our Common Stock may not be sustained. In the event of a rapid decrease in the trading price of our Common Stock, investors could lose a significant portion of their investment. Our failure to meet the continued listing requirements of the Nasdaq Capital Market could adversely affect our business and our ability to maintain the listing of our common stock on the Nasdaq Capital Market. If we fail to satisfy the continued listing requirements of Nasdaq Capital Market, such as corporate governance requirements or the minimum bid requirement, Nasdaq may take steps to delist our common stock. Such a delisting would likely have a negative effect on the price of our common stock and would impair our stockholders' ability to sell or purchase shares of our common stock when they wish to do so. In the event of a delisting, we can provide no assurance that any action taken by us to restore compliance with listing requirements would allow our common stock to be listed again, stabilize the market price or improve the liquidity of our common stock, prevent our common stock from dropping below the Nasdaq minimum bid price requirement or prevent future non-compliance with Nasdaq listing requirements. **On April 13, 2023, we received notice from the Nasdaq Stock Market LLC ("Nasdaq") indicating that the Company was not in compliance with the \$ 1.00 minimum bid requirement for continued listing on Nasdaq. Although we have until April 8, 2024 to regain compliance with the minimum bid requirement, there can be no assurance that we will regain such compliance and Nasdaq could make a determination to delist our common stock.** If securities or industry analysts do not publish or cease publishing research or reports about us, our business or our market, or if they change their recommendations regarding our common stock adversely, the price and trading volume of our common stock could decline. The trading market for our common stock may be influenced by the research and reports that industry or securities analysts may publish about us, our business, our market or our competitors. We currently have a limited number of securities and industry analysts who publish research on us. If we are unable to increase our analysts coverage or these current analysts cease to publish research on us, our stock price and trading volume could be negatively impacted. If any of the analysts who cover us change their recommendation regarding our stock adversely, or provide more favorable relative recommendations about our competitors, the price of our common stock could decline. If any analyst who may cover us were to cease coverage of us or fail to regularly publish reports, we could lose visibility in the financial markets, which could cause our stock price or trading volume to decline. We do not currently intend to pay dividends on our common stock and, consequently, your ability to achieve a return on your investment will depend on appreciation in the price of our common stock. We have never declared nor paid any cash dividends on our capital stock. We do

not expect to declare or pay any cash dividends in the foreseeable future. Any determination to pay dividends in the future will be at the discretion of our board of directors. As a result, stockholders must rely on sales of their common stock after price appreciation as the only way to realize any future gains on their investment, if any. Delaware law and our certificate of incorporation and bylaws contain certain provisions, including anti- takeover provisions that limit the ability of stockholders to take certain actions and could delay or discourage takeover attempts that stockholders may consider favorable. Our certificate of incorporation, bylaws and the Delaware General Corporation Law (" DGCL") contain provisions that could have the effect of rendering more difficult, delaying, or preventing an acquisition deemed undesirable by our board of directors and therefore could depress the trading price of our common stock and warrants. These provisions could also make it difficult for stockholders to take certain actions, including effecting changes in our management. Among other things, our certificate of incorporation and bylaws include provisions regarding: • a classified board of directors with three- year staggered terms, which could delay the ability of stockholders to change the membership of a majority of our board of directors; • the ability of our board of directors to issue shares of preferred stock, including " blank check " preferred stock and to determine the price and other terms of those shares, including preferences and voting rights, without stockholder approval, which could be used to significantly dilute the ownership of a hostile acquirer; • the limitation of the liability of, and the indemnification of, our directors and officers; • the exclusive right of our board of directors to elect a director to fill a vacancy created by the expansion of our board of directors or the resignation, death or removal of a director, which prevents stockholders from being able to fill vacancies on our board of directors; • the requirement that directors may only be removed from our board of directors for cause; • a prohibition on stockholder action by written consent, which forces stockholder action to be taken at an annual or special meeting of stockholders and could delay the ability of stockholders to force consideration of a stockholder proposal or to take action, including the removal of directors; • the requirement that a special meeting of stockholders may be called only by our board of directors, the chairperson of our board of directors, chief executive officer or president (in the absence of a chief executive officer), which could delay the ability of stockholders to force consideration of a proposal or to take action, including the removal of directors; • controlling the procedures for the conduct and scheduling of board of directors and stockholder meetings; • the requirement for the affirmative vote of holders of at least 66 2 / 3 % of the voting power of all of the then outstanding shares of the voting stock, voting together as a single class, to amend, alter, change or repeal any provision of our certificate of incorporation or bylaws, which could preclude stockholders from bringing matters before annual or special meetings of stockholders and delay changes in our board of directors and also may inhibit the ability of an acquirer to effect such amendments to facilitate an unsolicited takeover attempt; • the ability of our board of directors to amend the bylaws, which may allow our board of directors to take additional actions to prevent an unsolicited takeover and inhibit the ability of an acquirer to amend the bylaws to facilitate an unsolicited takeover attempt; and • advance notice procedures with which stockholders must comply to nominate candidates to our board of directors or to propose matters to be acted upon at a stockholders' meeting, which could preclude stockholders from bringing matters before annual or special meetings of stockholders and delay changes in our board of directors and also may discourage or deter a potential acquirer from conducting a solicitation of proxies to elect the acquirer' s own slate of directors or otherwise attempting to obtain control of the Company. These provisions, alone or together, could delay or prevent hostile takeovers and changes in control or changes in our board of directors or management. In addition, as a Delaware corporation, we are subject to provisions of Delaware law, including Section 203 of the DGCL, which may generally prohibit certain stockholders holding 15 % or more of our outstanding capital stock from engaging in certain business combinations with us for a specified period of time unless certain conditions are met. Any provision of our certificate of incorporation, bylaws or Delaware law that has the effect of delaying or preventing a change in control could limit the opportunity for stockholders to receive a premium for their shares of our capital stock and could also affect the price that some investors are willing to pay for our common stock. Our certificate of incorporation designates a state or federal court located within the State of Delaware as the exclusive forum for substantially all disputes between us and our stockholders, and also provides that the federal district courts will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act or Exchange Act, each of which could limit our stockholders' ability to choose the judicial forum for disputes with us or our directors, officers, or employees. Our certificate of incorporation provides that, unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Company, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee or agent to us or our stockholders, (iii) any action asserting a claim against us arising pursuant to any provision of the DGCL or our certificate of incorporation or bylaws, (iv) any action to interpret, apply, enforce or determine the validity of our certificate of incorporation or bylaws, or (v) any action asserting a claim against us governed by the internal affairs doctrine, in each such case subject to said Court of Chancery having personal jurisdiction over the indispensable parties named as defendants therein. Unless we consent in writing to the selection of an alternative forum, the federal district courts of the United States of America shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act or the Exchange Act. Any person or entity purchasing or otherwise acquiring any interest in any of our securities shall be deemed to have notice of and consented to this provision. These exclusive- forum provisions may limit a stockholder' s ability to bring a claim in a judicial forum of its choosing for disputes with us or our directors, officers or other employees, which may discourage lawsuits against us and our directors, officers and other employees. If a court were to find either exclusive- forum provision in our certificate of incorporation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving the dispute in other jurisdictions, which could harm its results of operations. Risks Related to our Digital Asset Holdings ~~Our bitcoin acquisition strategy~~ **We may acquire additional digital assets in the future, which may expose** ~~expose~~ us to various risks associated with bitcoin **and** ~~During the other digital assets fourth quarter of 2021, our board of directors approved certain purchases by the Company of bitcoin, which we currently hold~~. We are continually examining the risks and rewards of our

bitcoin acquisition strategy. This strategy has not been tested over time or under various market conditions. Some investors and other market participants may disagree with this strategy or actions we undertake to implement it. If the price of bitcoin falls or our bitcoin acquisition strategy otherwise proves unsuccessful, it would adversely impact our financial condition, results of operations, and the market price of our common stock. **In connection with owning** As of December 31, 2022, we held approximately 605 bitcoins that were acquired at an aggregate purchase price of approximately \$ 35 million and an average purchase price of approximately \$ 57, 804 per bitcoin , inclusive of fees and expenses. As part of our overall corporate strategy, we may purchase additional bitcoin in future periods, and may also sell bitcoin in future periods as needed to generate cash for operating purposes. While our bitcoin is currently owned directly by us, we may investigate other potential approaches to holding our bitcoin assets. If we change the means by which we **have historically hold held** our bitcoin assets, the accounting treatment for our bitcoin may correspondingly change. A change in the accounting treatment of our bitcoin holdings could have a material impact on our results of operations in future periods and could increase the volatility of our reported results of operations as well as affect the carrying value of our bitcoin on our balance sheet, which in turn could have a material adverse effect on our financial results and the market price of our common stock. Bitcoin is a highly volatile asset that has traded below \$ 16-17, 000 and above \$ 48-44, 000 per bitcoin during 2022-2023. Bitcoin does not pay interest or other returns and so our ability to generate cash from our bitcoin holdings depends on sales or implementing strategies that we may consider to create income streams or otherwise generate funds using our bitcoin holdings, including financing our bitcoin with loans from third parties. Furthermore, the impact of our bitcoin holdings on our financial results and the market price of our common stock may be impacted by the trading price of bitcoin at any given time. The prices of digital currencies, including bitcoin and ethereum, may be influenced by regulatory, commercial, and technical factors that are highly uncertain, and fluctuations in the price of bitcoin are likely to influence our financial results and the market price of our common stock. Fluctuations in the trading prices of digital assets are likely to influence our financial results and the market price of our common stock. Our financial results and the market price of our common stock would be adversely affected and our business and financial condition could be negatively impacted if the price of bitcoin decreased substantially, including as a result of:

- decreased user and investor confidence in digital assets;
- investment and trading activities of highly active retail and institutional users, speculators, miners and investors;
- negative publicity or events relating to digital assets;
- negative or unpredictable media or social media coverage on digital assets;
- public sentiment related to the actual or perceived environmental impact of bitcoin, ethereum and related activities, including environmental concerns raised by private individuals and governmental actors related to the energy resources consumed in the bitcoin mining process;
- changes in consumer preferences and the perceived value of bitcoin or ethereum;
- competition from other crypto assets that are believed to exhibit better speed, security, scalability, or other characteristics, or that are backed by governments, including the U. S. government;
- correlations between the prices of digital assets, including the potential that a crash in one digital asset or widespread defaults on one digital asset exchange or trading venue may cause a crash in the price of bitcoin, or a series of defaults by counterparties on bitcoin asset exchanges or trading venues;
- the identification of Satoshi Nakamoto, the pseudonymous person or persons who purportedly developed bitcoin, or the transfer of Satoshi' s bitcoin;
- interruptions in service or failures of the principal markets for or market participants active in trading involving bitcoin, ethereum or other digital assets;
- further reductions in mining rewards of bitcoin, including block reward halving events, which are events that occur after a specific period of time that reduce the block reward earned by “ miners ” who validate bitcoin and ethereum transactions;
- transaction congestion and fees associated with processing transactions on the bitcoin or ethereum network;
- changes in the level of interest rates and inflation, monetary policies of governments, trade restrictions, and fiat currency devaluations;
- developments in mathematics or technology, including in digital computing, algebraic geometry and quantum computing, that could result in the cryptography being used by digital assets becoming insecure or ineffective; and
- national and international economic and political conditions.

In addition, bitcoin, ethereum and other digital assets are relatively novel and are subject to various risks and uncertainties that may adversely impact their prices. The application of securities, commodities and other laws and other regulations to such assets is unclear in certain respects, and it is possible that new laws and regulations, or interpretations of existing laws and regulations, in the United States or foreign countries may adversely affect the price of our bitcoin, ethereum and other digital assets. For example, foreign government authorities have recently expanded their efforts to restrict certain activities related to bitcoin and other digital assets. In China, the People' s Bank of China and the National Development and Reform Commission have outlawed cryptocurrency mining and declared all cryptocurrency transactions illegal within the country. In India, based on statements made by government personnel, including the Finance Minister, one can conclude that cryptocurrency is illegal in the country. In July 2022, Russia enacted a law banning payments in cryptocurrency for goods and services. Moreover, the risks of engaging in a bitcoin- focused treasury strategy are relatively novel and have created, and may create further, complications due to the lack of experience that third parties have with companies engaging in such a business, such as the unavailability of director and officer liability insurance on acceptable terms. The growth of the digital assets industry in general, and the use and acceptance of bitcoin and ethereum in particular, may also impact the price of our digital asset holdings and is subject to a high degree of uncertainty. The pace of worldwide growth in the adoption and use of bitcoin may depend, for instance, on public familiarity with digital assets, ease of buying and accessing bitcoin, institutional demand for bitcoin as an investment asset or store of value, consumer demand for bitcoin as a means of payment or store of value, and the availability and popularity of alternatives to bitcoin. Even if growth in bitcoin adoption occurs in the near or medium- term, there is no assurance that bitcoin usage will continue to grow over the long- term. Because bitcoin and ethereum have no physical existence beyond the record of transactions on their respective blockchains, a variety of technical factors related to the bitcoin blockchain could also impact the price of bitcoin. For example, malicious attacks by miners, inadequate mining fees to incentivize validating of transactions, hard “ forks ” of the blockchain into multiple blockchains, and advances in digital computing, algebraic geometry and quantum computing could undercut the integrity of the blockchain and negatively affect the price of our digital asset holdings. The liquidity of bitcoin and ethereum

may also be reduced and damage to the public perception of bitcoin and ethereum may occur, if financial institutions were to deny banking services to businesses that hold digital assets, provide digital asset-related services or accept digital assets as payment, which could also decrease the price of our digital asset holdings. Our historical financial statements do not reflect the potential variability in earnings that we may experience in the future relating to our digital asset holdings. Our historical financial statements do not fully reflect the potential variability in earnings that we may experience in the future from holding or selling significant amounts of digital assets. The prices of bitcoin and ethereum have historically been subject to dramatic price fluctuations and are highly volatile. As explained more fully in Note 2 to our consolidated financial statements for the year ended December 31, 2022 included in this Annual Report on Form 10-K, as required by current accounting standards, we determine the fair value of our digital assets based on quoted (unadjusted) prices. We perform an analysis each quarter to identify whether events or changes in circumstances, principally decreases in the quoted (unadjusted) prices of digital assets on an active exchange, indicate that it is more likely than not that any of our digital assets are impaired. In determining if an impairment has occurred, we consider the lowest price of one digital asset quoted on an active exchange at any time since acquiring the specific asset. If the carrying value exceeds that lowest price at any time during the quarter, an impairment loss is deemed to have occurred with respect to that digital asset in the amount equal to the difference between its carrying value and such lowest price, and subsequent increases in the price will not be adjusted upward. Gains (if any) are not recorded until realized upon sale. In determining the gain to be recognized upon sale, we calculate the difference between the sale price and carrying value of the specific digital asset sold immediately prior to sale. As a result, any decrease in the fair value of our digital assets below their respective carrying value for such assets at any time since their acquisition requires us to incur an impairment charge, and such charge could be material to our financial results for the applicable reporting period, which may create significant volatility in our reported earnings and decrease the carrying value of our digital assets, which in turn could have a material adverse effect on the market price of our common stock. As of December 31, 2022, we held \$ 10.1 million of digital assets on our balance sheet and recognized \$ 22.9 million digital asset impairment losses during the year ended December 31, 2022, which represented 45 % of our net losses. We have purchased and may purchase from time to time additional digital assets, and we may engage in other non-traditional treasury strategies in future periods. As a result, the proportion of our total assets represented by digital asset holdings may increase in the future, and volatility in our earnings in future periods may be significantly more than what we experienced in prior periods. Due to the unregulated nature and lack of transparency surrounding the operations of many digital asset trading venues, they may experience fraud, security failures or operational problems, which may adversely affect the value of our digital asset holdings. In the event of a bankruptcy filing by a custodian, bitcoin held in custody could be determined to be property of a bankruptcy estate and we could be considered a general unsecured creditor thereof. Digital asset trading venues are relatively new and, in some cases, unregulated or subject to regulatory uncertainty. Furthermore, many digital asset trading venues do not provide the public with significant information regarding their ownership structure, management teams, corporate practices and regulatory compliance. As a result, the marketplace may lose confidence in these trading venues, including prominent digital asset exchanges that handle a significant volume of trading, in the event one or more trading venues experience fraud, security failures or operational problems. For example, in the first half of 2022, each of Celsius Network, Voyager Digital Ltd., and Three Arrows Capital declared bankruptcy, resulting in a loss of confidence in participants of the digital asset ecosystem and negative publicity surrounding digital assets more broadly. In November 2022, FTX, the third largest digital asset exchange by volume at the time, halted customer withdrawals and shortly thereafter, FTX and its subsidiaries filed for bankruptcy. In response to these events, the digital asset markets, including the market for bitcoin specifically, have experienced extreme price volatility and several other entities in the digital asset industry have been, and may continue to be, negatively affected, further undermining confidence in the digital assets markets and in bitcoin. If the liquidity of the digital assets markets continues to be negatively impacted by these events, digital asset prices (including the price of bitcoin) may continue to experience significant volatility and confidence in the digital asset markets may be further undermined. These events are continuing to develop, and it is not possible to predict at this time all of the risks that they may pose to us, our service providers or on the digital asset industry as a whole. A perceived lack of stability among digital asset exchanges and the closure or temporary shutdown of any significant digital asset exchanges due to business failure, hackers or malware, government-mandated regulation, or fraud, may reduce confidence in digital asset networks and result in greater volatility in digital asset values. To the extent investors view our common stock as linked to the value of our digital asset holdings, particularly bitcoin, these potential consequences of a trading venue's failure could have a material adverse effect on the market price of our common stock. Furthermore, the treatment of bitcoins held by custodians that file for bankruptcy protection is uncharted territory in U. S. Bankruptcy law. We cannot say with certainty whether bitcoin held in custody by a bankrupt custodian would be treated as property of a bankruptcy estate and, accordingly, whether the owner of that bitcoin would be treated as a general unsecured creditor. The concentration of our digital asset holdings enhances the risks inherent in our digital asset treasury strategy. As of December 31, 2022, the carrying value of our digital asset holdings represented approximately 18 % of our total assets, a majority of which is held in bitcoin and ethereum. We may purchase additional digital assets and increase our overall holdings of bitcoin and ethereum in the future, as well as, accept bitcoin and ethereum as payment for PhunToken and our products and services. The concentration of our digital asset holdings limit the risk mitigation that we could take advantage of by purchasing a more diversified portfolio of treasury assets, and the absence of diversification enhances the risks inherent of a traditional treasury strategy. If there is a significant decrease in the price of bitcoin or ethereum, we will experience a more pronounced impact on our **or** financial condition than if we used our cash to purchase a more diverse portfolio of assets. We have sold a portion of our bitcoin holdings as a source of liquidity and may be required to continue this in the future during a time of market volatility, which may result in selling our digital assets at a significant loss. We have currently adopted bitcoin as our primary treasury reserve asset. During 2022, we sold some of our bitcoin holdings as a source of liquidity to fund operations. Historically, the digital asset markets have been characterized by

more price volatility, a relative anonymity, a developing regulatory landscape, susceptibility to market abuse and manipulation, and various other risks inherent in its entirely electronic, virtual form and decentralized network. During times of market instability, we may not be able to sell our bitcoin or other digital asset holdings at reasonable prices or at all. If we are unable to sell our digital assets, or if we are forced to sell our digital assets at a significant loss in order to meet our working capital requirements, our business and financial condition could be negatively impacted. If we or our third- party service providers experience a security breach or cyberattack and unauthorized parties obtain access to our digital asset holdings, we may lose some or all of our digital assets and our financial condition and results of operations could be materially adversely affected. Security breaches and cyberattacks are of particular concern with respect to digital assets. Bitcoin, ethereum and other digital assets have been, and may in the future be, subject to security breaches, cyberattacks, or other malicious activities. A successful security breach or cyberattack could result in: • a partial or total loss of our holdings in a manner that may not be covered by insurance; • harm to our reputation and brand; • improper disclosure of data and violations of applicable data privacy and other laws; or • significant regulatory scrutiny, investigations, fines, penalties, and other legal, regulatory, contractual and financial exposure. Further, any actual or perceived security breach or cybersecurity attack directed at other companies with digital assets or companies that operate digital asset networks or exchanges, whether or not we are directly impacted, could lead to a general loss of confidence in the broader digital asset ecosystem or in the use of networks to conduct financial transactions, which could negatively impact us. Attacks upon systems across a variety of industries, including industries related to digital assets, are increasing in frequency, persistence and sophistication, and, in many cases, are being conducted by sophisticated, well- funded and organized groups and individuals, including state actors. The techniques used to obtain unauthorized, improper or illegal access to systems and information (including personal data and digital assets), disable or degrade services, or sabotage systems are constantly evolving, may be difficult to detect quickly, and often are not recognized or detected until after they have been launched against a target. These attacks may occur on our systems or those of our third- party service providers or partners. We may experience breaches of our security measures due to human error, malfeasance, insider threats, system errors or vulnerabilities or other irregularities. In particular, unauthorized parties have attempted, and we expect that they will continue to attempt, to gain access to our systems and facilities, as well as those of our partners and third- party service providers, through various means, such as hacking, social engineering, phishing and fraud. Threats can come from a variety of sources, including criminal hackers, hacktivists, state- sponsored intrusions, industrial espionage and insiders. In addition, certain types of attacks could harm us even if our systems are left undisturbed. For example, certain threats are designed to remain dormant or undetectable, sometimes for extended periods of time, or until launched against a target and we may not be able to implement adequate preventative measures. Further, there has been an increase in such activities as a result of the COVID- 19 pandemic, and there could be additional breaches as a result of the ongoing conflicts involving Ukraine and other countries. Any future security breach of our operations or those of others in the digital asset industry, including third- party services on which we rely, could materially and adversely affect our digital asset holding and financial condition. The loss or destruction of a private key required to access our digital asset wallets may be irreversible. If we are unable to access our private keys or if we experience a cyberattack or other data loss relating to our digital asset holdings, our financial condition and results of operations could be materially adversely affected. Our digital assets are controllable only by the possessor of both the unique public keys and private keys relating to the local or online digital wallets in which our digital assets are held. While the blockchain ledger requires a public key relating to a digital wallet to be published when used in a transaction, private keys must be safeguarded and kept private in order to prevent a third party from accessing the assets held in such wallet. To the extent our private key is lost, destroyed, or otherwise compromised and no backup of the private key is accessible, we will be unable to access our digital assets held in the related digital wallet. Furthermore, we cannot provide assurance that our digital wallets will not be compromised as a result of a cyberattack. The blockchain ledger, as well as digital assets and blockchain technologies, have been, and may in the future be, subject to security breaches, cyberattacks or other malicious activities. A determination that bitcoin or any other digital asset is a " security" could lead to our classification as an " investment company " under the Investment Company Act of 1940 and could adversely affect the market price of our digital asset holdings and the market price of our common stock. The SEC has stated that certain digital assets may be considered " securities " under the federal securities laws. The test for determining whether a particular digital asset is a " security " is complex and the outcome is difficult to predict. It is possible that the SEC could take a contrary position to the one taken by its senior officials or a federal court could conclude that bitcoin or any other digital assets we hold are securities. Such a determination could lead to our classification as an " investment company " under the Investment Company Act of 1940, as amended (the " Investment Company Act"), which would subject us to significant additional regulatory controls, potential fines and regulatory charges, all of which could have a material adverse effect on our business and operations and also may require us to substantially change the manner in which we conduct our business. In addition, if bitcoin or any other digital asset we hold are determined to be securities for purposes of the federal securities laws, the additional regulatory restrictions imposed by such a determination could adversely affect the market price of bitcoin or such other digital assets and in turn adversely affect the market price of our common stock. Risks Related to our Token Ecosystem and Tokens We have raised capital to fund a Token Generation Event of rights to receive future PhunCoin, and beginning in 2021 we created and sold PhunToken. There can be no assurance that PhunCoin will ever be issued, and any significant difficulties we may experience with the offerings of PhunCoin or sales of PhunToken could result in claims against us. Additionally, the Token Generation Event and the offerings of PhunCoin and sales of PhunToken could subject us to various other business and regulatory uncertainties. In June 2018, we raised capital by offering investors rights to acquire PhunCoin (" Rights") pursuant to Rule 506 (c) of Regulation D as promulgated under the Securities Act. In addition, in 2019, PhunCoin, Inc. commenced an offering of Rights pursuant to Regulation CF, which closed May 1, 2019. As of December 31, 2022-2023, a total of \$ 1. 2 million has been raised in both Rights offerings. During the second quarter of 2019, Phunware announced the launch of a separate token, PhunToken, by our wholly owned subsidiary, Phun Token International, which enables holders to

participate in our blockchain-enabled data exchange and mobile loyalty engagement ecosystem. As of December 31, 2022-2023, we sold an aggregate of \$ 2. 6 million of PhunToken. Upon sale of PhunToken to customers, we deliver PhunToken to the respective customer's Ethereum-based wallet. We will use commercially reasonable efforts to develop the Token Ecosystem, deliver PhunCoin and PhunToken, respectively, but there is no assurance that such efforts will be successful. If the Token Generation Event, defined as the launch of the Token Ecosystem, is not consummated, our sales of PhunCoin and additional sales of PhunToken may not result in substantial proceeds. If the Token Generation Event is not consummated and / or PhunCoin or PhunToken is not adopted commercially, we may have to reduce our planned expenditures. Also, any significant difficulties we may experience with the Token Generation Event, the delivery of PhunCoin or the continued sales and delivery of PhunToken could result in claims against us which could have a material adverse effect on our financial condition. The further development and acceptance of blockchain networks, which are part of a new and rapidly changing industry, are subject to a variety of factors that are difficult to evaluate. The slowing or stopping of the development or acceptance of blockchain networks and blockchain assets could have a material adverse effect on our business plans, which may have a material adverse effect on the Company and our stockholders. The growth of the blockchain industry in general, as well as the networks on which we will rely to consummate the Token Generation Event, is subject to a high degree of uncertainty. The digital asset and digital asset industries as a whole have been characterized by rapid changes and innovations and are constantly evolving. The slowing or stopping of the development, general acceptance and adoption and usage of blockchain networks and digital assets may materially adversely affect our business plans to launch and maintain PhunCoin, sell PhunToken and continue to develop the Token Ecosystem. For example, given the regulatory complexity and uncertainty with respect to digital assets, complying with such laws and regulations, which could change in the future or be subject to new interpretations, could have a material and adverse effect on our ability to develop, launch and continue to operate PhunCoin, PhunToken and the Token Ecosystem. In addition, the tax and accounting consequences to us of the Token Generation Event, PhunCoin, PhunToken and the Token Ecosystem could lead to incorrect reporting, classification or liabilities. If the Token Generation Event occurs and PhunCoin is launched and developed and PhunToken is further developed, the structural foundation of PhunCoin and PhunToken, and the software applications and other interfaces or applications upon which PhunCoin, PhunToken and the Token Ecosystem rely or on which PhunCoin, PhunToken and the Token Ecosystem may rely in the future, are and will be unproven. There can be no assurances that PhunCoin or PhunToken will be fully secure, which may result in impermissible transfers, a complete loss of users' PhunCoin or PhunToken, or an unwillingness of users to access, adopt and utilize PhunCoin or PhunToken or the Token Ecosystem, whether through system faults or malicious attacks. Any such faults or attacks on PhunCoin or PhunToken may materially and adversely affect our business. Because our tokens will be digital assets built and transacted initially on top of existing third-party blockchain technology, Phunware is reliant on another blockchain network, and users could be subject to the risk of wallet incompatibility and blockchain protocol risks. Reliance upon another blockchain technology to create, develop and maintain the Token Ecosystem subjects us and Token Ecosystem users to the risk of digital wallet incompatibility, or additional ecosystem malfunction, unintended function, unexpected functioning of, or attack on, the providers' blockchain protocol, which may cause PhunCoin or PhunToken to malfunction or function in an unexpected manner, including, but not limited to, slowdown or complete cessation in functionality of the Token Ecosystem. The development and operation of the Token Ecosystem will likely require additional technology and intellectual property rights. Our ability to develop and operate the Token Ecosystem may depend on technology and intellectual property rights that we may license from unaffiliated third parties. If for any reason we were to fail to comply with our obligations under any applicable license agreement, or were unable to provide or were to fail to provide the technology and intellectual property that the Token Ecosystem requires, it would be unable to operate, which could have a material adverse effect on the Company's operations and financial condition and its ability to develop, enhance, and maintain the Token Ecosystem. Some of our Token Ecosystem code and protocols rely on open source code publicly available. The open-source structure of some of the Token Ecosystem protocols means that the Token Ecosystem may be susceptible to developments by users or contributors that could damage the Token Ecosystem and our reputation and could affect the sale and utilization of PhunCoin, PhunToken and the Token Ecosystem. The open-source nature of the Token Ecosystem protocol also means that it may be difficult for the Company or contributors maintain or develop the Token Ecosystem and the Company may not have adequate resources to address emerging issues or malicious programs that develop within the Token Ecosystem or expand functionality of the Token Ecosystem adequately or in a timely manner. Third parties not affiliated with us may introduce weaknesses or bugs into the core infrastructure elements of the Token Ecosystem and open-source code which may negatively impact the Token Ecosystem. Such events may result in a loss of trust in the security and operation of the Token Ecosystem and a decline in user activity and could negatively impact the sale and utilization of and development, acceptance and adoption of the Token Ecosystem, PhunCoin and PhunToken. Open source software is generally freely accessible, usable and modifiable. Certain open source licenses may, in certain circumstances, require us to offer the components of our Token Ecosystem that incorporate the open source software for no cost, that we make available source code for modifications or derivative works we create based upon, incorporating or using the open source software and that we license such modifications or derivative works under the terms of the particular open source license. If an author or other third party that distributes open source software we use were to allege that we had not complied with the conditions of one or more of these licenses, we could be required to incur significant legal expenses defending against such allegations and could be subject to significant damages, including being enjoined from the offering of the components of our Token Ecosystem that contained the open source software and being required to comply with the foregoing conditions, which could disrupt our ability to offer the affected software. We could also be subject to suits by parties claiming ownership of what we believe to be open source software. Litigation could be costly for us to defend, have a negative effect on our operating results and financial condition and require us to devote additional research and development resources to change our products. The Token Ecosystem is designed to distribute PhunCoin or PhunToken to consumers who provide certain personal information to us. Providing this

data exposes us to risks of privacy data breach and cybersecurity attacks. We utilize a substantial amount of electronic information. This includes transaction information and sensitive personal information of the users of the Token Ecosystem. The service providers used by us, may also use, store, and transmit such information. We intend to implement detailed privacy and cybersecurity policies and procedures and an incident response plan designed to protect such sensitive personal information and prevent data loss and security breaches. There can be no assurances that PhunCoin, PhunToken or a user's data will be fully secure, which may result in impermissible transfer, a complete loss of users' PhunCoin, PhunToken or data on the Token Ecosystem, whether through system faults or malicious attacks, or an unwillingness of users to access, adopt and utilize PhunCoin and PhunToken. Any such faults or attacks on PhunCoin, PhunToken or users' data may materially and adversely affect PhunCoin, PhunToken and the Token Ecosystem. There are a number of data protection, security, privacy and other government- and industry- specific requirements, including those that require companies to notify individuals of data security incidents involving certain types of personal data. Security compromises could harm the Token Ecosystem's reputation, erode user confidence in the effectiveness of its security measures, negatively impact its ability to attract new users, or cause existing users to stop using the Token Ecosystem, or purchasing and using or consuming PhunCoin and PhunToken. We may be compelled to disclose personal information about a user or users of the Token Ecosystem to federal or state government regulators or taxation authorities. Accordingly, certain information concerning users may be shared outside Phunware. The Token Ecosystem may be the target of malicious cyberattacks or may contain exploitable flaws in its underlying code, which may result in security breaches and the loss or theft of PhunCoin or PhunToken. If Token Ecosystem's security is compromised or if the Token Ecosystem is subjected to attacks that frustrate or thwart our users' ability to access the Token Ecosystem, their PhunCoin, PhunToken or the Token Ecosystem products and services, users may cease using the Token Ecosystem altogether. The Token Ecosystem uses and will use new technology. There are no guarantees that such technology will be bug- free or accepted by the marketplace. Thus, even if the Token Ecosystem is operational, our tokens may be subject to the risk of theft, loss, malfunction, or reputational risk, any of which can significantly degrade the potential use of PhunCoin and PhunToken. The Token Ecosystem structural foundation, the open- source protocols, the software application and other interfaces or applications built upon the Token Ecosystem are still in an early development stage and are unproven, and there can be no assurances that the Token Ecosystem and the creation, transfer or storage of PhunCoin and PhunToken will be uninterrupted or fully secure which may result in a complete loss of users' PhunCoin or PhunToken or an unwillingness of users to access, adopt and utilize the Token Ecosystem. Further, the Token Ecosystem may also be the target of malicious attacks seeking to identify and exploit weaknesses in the software or the Token Ecosystem which may result in the loss or theft of PhunCoin or PhunToken. For example, if our tokens and the Token Ecosystem are subject to unknown and known security attacks (such as double- spend attacks, 51 % attacks, or other malicious attacks), such attacks may materially and adversely affect the Token Ecosystem. In any such event, if the Token Ecosystem is not widely adopted, Purchasers of PhunCoin may lose all of their investment and customers of PhunToken may hold a coin for which there is no market to transact. The Token Ecosystem is susceptible to mining attacks. As with other decentralized digital assets, the blockchain used in connection with PhunCoin, PhunToken and the Token Ecosystem may be susceptible to mining attacks, including double- spend attacks, majority mining power attacks, selfish- mining attacks, and race condition attacks. Any successful attacks present a risk to the Token Ecosystem and our tokens. Despite efforts by us, the risk of known or novel mining attacks exists. Alternative platforms or networks may be established that compete with or are more widely used than the Token Ecosystem. It is possible that alternative platforms or networks could be established that utilize the same or similar protocols underlying the Token Ecosystem or attempt to facilitate services or strategies that are materially similar to the Token Ecosystem's services or strategies. The introduction of these alternative networks and the potential entry of new competitors into the market could harm our ability to increase sales, which could negatively impact the Token Ecosystem, PhunCoin and PhunToken. There is no trading market for PhunCoin. There is no established public market for PhunCoin. Peer- to- peer transfers will not be permitted unless and until rights holders are notified otherwise by us and informed of the requirements and conditions to do so. There can be no assurance that a secondary market will develop or, if a secondary market does develop, that it will provide the holders of the PhunCoin rights with liquidity of investment or that it will continue for the life of PhunCoin. The liquidity of any market will depend on a number of factors, including, but not limited: (i) the number of holders; (ii) the performance of PhunCoin; (iii) the market for similar crypto assets; (iv) the interest of traders in making a market for PhunCoin; (v) regulatory developments in the digital token or cryptocurrency industries and (vi) legal restrictions on transfer. In the event that PhunCoin remains untradeable for a significant period of time or indefinitely, their value could be materially adversely affected. The delay, or perceived delay, in the full development of our Token Ecosystem may result in declines in PhunToken revenue. PhunToken is intended to be used or consumed within our Token Ecosystem. We can provide no assurance, as to when, or if, we will be able to successfully complete the development of the Token Ecosystem. If we are unable to fully develop the Token Ecosystem, PhunToken customers or potential PhunToken customers may seek to find alternate methods to use, consume or transact their PhunToken. Secondary markets, some of which we may not be aware of, may develop as a result. The development of an alternative " marketplace " in which consumers can, or believe they can, purchase PhunToken at a price lower than our current sales price, may result in lower sales and harm our financial performance. The regulatory regime governing blockchain technologies, digital assets, digital asset exchanges and offerings of and transactions in digital assets is uncertain, and new regulations or policies may materially adversely affect the development and the value of our tokens. Regulation of digital assets, like PhunCoin and PhunToken, blockchain technologies and digital asset exchanges, is currently expanding and likely to rapidly evolve and increase as government agencies take greater interest in them. Regulation also varies significantly among U. S. federal, state and foreign jurisdictions and is subject to significant uncertainty at this time. Various legislative and executive bodies in the United States and in other countries may in the future adopt laws, regulations, or guidance, or take other actions, which may severely impact the permissibility of tokens generally and the technology behind them or digital asset ~~transactions~~ **transactions**. In addition, any violations of laws and

regulations relating to the safeguarding of private information in connection with PhunCoin and PhunToken could subject us to fines, penalties or other regulatory actions, as well as to civil actions by affected parties. Any such violations could adversely affect our ability to maintain PhunCoin and PhunToken, which could have a material adverse effect on our operations and financial condition. Failure by us to comply with any laws, rules and regulations, some of which may not exist yet or are subject to interpretation and may be subject to change, could result in a variety of adverse consequences, including civil penalties and fines. The sale of PhunToken or the offerings of PhunCoin may subject us to additional regulatory requirements. We will be adversely affected if we are, or any of our subsidiaries is, determined to have been subject to registration as an investment company under the Investment Company Act. We are currently not deemed an “ investment company ” subject to regulation under the Investment Company Act. There is no guarantee we will continue to be exempt from registration under the Investment Company Act and were we to be deemed to be an investment company under the Investment Company Act, and thus subject to regulation under the Investment Company Act, the increased reporting and operating requirements could have an adverse impact on our business, operating results and financial condition. In addition, if the SEC or a court of competent jurisdiction were to find that we are in violation of the Investment Company Act for having failed to register as an investment company thereunder, possible consequences include, but are not limited to, the following: (i) the SEC could apply to a district court to enjoin the violation; (ii) we could be sued by investors in us and in our securities for damages caused by the violation; and (iii) any contract to which we are a party that is made in, or whose performance involves a, violation of the Investment Company Act would be unenforceable by any party to the contract unless a court were to find that under the circumstances enforcement would produce a more equitable result than nonenforcement and would not be inconsistent with the purposes of the Investment Company Act. Should we be subjected to any or all of the foregoing, our business would be materially and adversely affected. The prices of digital assets are extremely volatile. Fluctuations in the prices of digital assets and / or waning interest of investors in the digital asset markets could materially and adversely affect our business. The prices of blockchain assets such as bitcoin and ethereum have historically been subject to dramatic fluctuations and are highly volatile. Several factors may influence the interest in digital assets such as PhunCoin and PhunToken, including, but not limited to: • global digital asset supply; • businesses’ acceptance of digital assets like cryptocurrencies as payment for goods and services, the security of online digital asset exchanges and digital wallets that hold blockchain assets, the perception that the use and holding of digital assets is safe and secure, and the regulatory restrictions on their use; • purchasers’ expectations with respect to the rate of inflation; • changes in the software, software requirements or hardware requirements underlying the Token Ecosystem; • changes in the rights, obligations, incentives, or rewards for the users of and other participants in the Token Ecosystem; • interest rates; • currency exchange rates, including the rates at which digital assets may be exchanged for fiat currencies; • fiat currency withdrawal and deposit policies of digital asset exchanges on which users may trade digital assets and liquidity on such exchanges; • interruptions in service from or failures of major digital asset exchanges in which users may trade digital assets; • investment and trading activities of large investors, including private and registered funds, that may directly or indirectly purchase PhunCoin or other digital assets; • monetary policies of governments, trade restrictions, currency devaluations and revaluations; • regulatory measures that may affect the purchase or use of digital assets, including PhunCoin and PhunToken; • the maintenance and development of the open- source software protocol of certain digital assets; • global or regional political, economic or financial events and conditions; or • expectations among the Token Ecosystem or other digital asset market participants that the value and / or utility of certain digital assets will soon change.