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

FORM 10-K

(Mark One)

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

For the fiscal year ended December 31, 2018

☐ TRANSITION REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from [ ] to [ ]

Commission file number 333-177463

AudioEye, Inc.

(Exact name of registrant as specified in its charter)

Delaware		**20-2939845**
(State or other jurisdiction of incorporation or organization)		(I.R.S. Employer Identification No.)
5210 E. Williams Circle, Suite 750, Tucson, Arizona	**85711**	**(866) 331-5324**
(Address of principal executive offices)	(Zip Code)	(Registrant's telephone number, Including area code)

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

Title of Each Class	**Name of Each Exchange on Which Registered**
Common Stock, par value $0.00001 per share	**The NASDAQ Capital Market**

Securities registered pursuant to Section 12(g) of the Act:
None
(Title of class)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and (2) has been subject to such filing requirements for the last 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

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

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

Large accelerated filer	☐	Accelerated filer	☐
Non-accelerated filer	☒	Smaller reporting company	x
Emerging growth company	☐		

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

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

The aggregate market value of the voting and non-voting common equity held by non-affiliates of the registrant as of June 30, 2018 was $19,966,655.

As of March 20, 2019, 7,623,227 shares of the registrant's common stock were issued and outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the definitive Proxy Statement to be delivered to stockholders in connection with the registrant's 2019 Annual Meeting of Stockholders scheduled to be held on May 10, 2019 are incorporated by reference into Part III of this report.

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CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This annual report contains forward-looking statements within the meaning of the federal securities laws, including Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). These statements relate to either future events or our future financial performance. In some cases, you may be able to identify forward-looking statements by terms such as "may," "should," "expects," "plans," "anticipates," "believes," "estimates," "predicts," "potential" or "continue," the negative of these terms or other synonymous terminology. These statements are only predictions and involve known and unknown risks, uncertainties and other factors, including the risks in the section entitled "Risk Factors," that may cause our or our industry's actual results, levels of activity, performance or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied by these forward-looking statements.

Because these forward-looking statements involve known and unknown risks and uncertainties, there are important factors that could cause actual results, events or developments to differ materially from those expressed or implied by these forward-looking statements, including our plans, objectives, expectations and intentions and other factors discussed in "Part I—Item 1A. Risk Factors" contained in this Annual Report. Risk factors that could cause actual results to differ from those contained in the forward-looking statements include but are not limited to risks related to:

- the uncertain market acceptance of our existing and future products;
- our need for, and the availability of, additional capital in the future to fund our operations and the development of new products;
- the success, timing and financial consequences of new strategic relationships or licensing agreements we may enter into;
- rapid changes in Internet-based applications that may affect the utility and commercial viability of our products;
- the timing and magnitude of expenditures we may incur in connection with our ongoing product development activities;
- the level of competition from our existing competitors and from new competitors in our marketplace; and
- the regulatory environment for our products and services.

All forward-looking statements are made only as of the date hereof. Except as required by applicable law, including the securities laws of the United States, we do not intend, and we do undertake any obligation, to revise or update any of the forward-looking statements to match actual results. Readers are urged to carefully review and consider the various disclosures made in this report, which aim to inform interested parties of the risks factors that may affect our business, financial condition, results of operations and prospects.

As used in this annual report, the terms "we," "us," "our," "AudioEye," the "Company" and similar references refer to AudioEye, Inc.

PART I

Item 1. Business

Overview

AudioEye is a marketplace leader providing digital accessibility technology solutions for our clients' customers through our Ally Platform products. Our solutions advance accessibility with patented technology that reduces barriers, expands access for individuals with disabilities, and enhances the user experience for a broader audience of users**.** We believe that, when implemented our solutions offer businesses the opportunity to reach more customers, improve brand image, build additional brand loyalty, and, most importantly, provide an accessible and usable web experience to the expansive and ever-growing population of individuals with disabilities throughout the world. In addition, our solutions help organizations comply with internationally accepted Web Content Accessibility Guidelines ("WCAG") as well as U.S., Canadian, Australian, and United Kingdom accessibility laws.

We generate revenues through the sale of subscriptions of our software-as-a-service ("SaaS") technology platform, called the AudioEye Ally Platform, to website owners, publishers, developers, Content Management System ("CMS") platform providers and operators through the delivery of managed services combined with the implementation of our solutions. Our solutions have been adopted by some of the largest and most influential companies in the world. Our customers span disparate industries and target market verticals, which encompass (but are not limited to) the following categories: human resources, finance, retail/ecommerce, food services, automotive, transportation, hospitality, media, and education. Government agencies, both at the federal level and state and local levels have also integrated our software in their digital platforms.

AudioEye customers fall into one of two distinct sales channels: direct and indirect. In the direct channel, AudioEye sales personnel engage directly with the customer. In the indirect channel, AudioEye engages with customers, who are referred to as Indirect Channel Partners, who provide a website hosting platform for their end-user customers, and who serve as an authorized reseller of the AudioEye solution to their customers. Indirect channel sales have been a key factor in the acceleration of the AudioEye sales and marketing strategy. By working with strategically identified resellers, these partners provide a unique opportunity allowing AudioEye to onboard more end-user customers in a shorter period of time. By working with providers of the proprietary content management systems, AudioEye leverages economies of scale to deliver the AudioEye solution in a cost-effective and highly efficient way. In middle and lower markets, this strategy has helped make accessibility accessible to industries that would otherwise neglect the important issue of digital inclusion, altogether. We believe that there is significant opportunity for us to increase revenues by delivering our solutions through this indirect channel and therefore will continue to invest capital and resources in expanding our strategic partner business.

Industry Background

Millions of Internet users are impacted by disabilities that prevent them from accessing and using digital content on an equivalent basis. If not coded properly, a website may not offer full functionality for all users, in particular for users of assistive technology ("AT"), such as a screen reader. As a result, they may exclude potential users and customers. These sites also may not comply with U.S. and foreign laws addressing equal access and digital inclusion.

Traditional solutions addressing web accessibility may be costly and difficult to implement. Historically, the process for achieving compliance has been driven by costly consulting services and has not fully utilized emerging technologies to reduce the compliance cost burden. At the same time, web accessibility efforts have generally focused on a limited number of disability use cases, leaving many users' accessibility needs for digital inclusion unaddressed. Businesses may have been reluctant to invest further in web accessibility solutions due to a perceived lack of commercial return on the significant investment required in order to design and implement a thorough and usable compliance solution.

Conventional solutions have been developed to help users access websites, but these systems often require plug-ins or software to be installed on the user's computer. Many of these solutions are tailored to single or a limited number of use cases and do not encompass a more holistic approach for addressing a wider range of use cases. In some cases, these systems can be costly, unwieldy and inconvenient. Furthermore, the assistive software's ability to understand, process, and interpret complex and dynamic web applications that are prevalent across the web today is dependent on the quality in which the code was designed and developed, including the level to which the website adheres to best practices and standards.

Intellectual Property

Our intellectual property is primarily comprised of trade secrets, trademarks, issued, published and pending patent applications, copyrights and technological innovation. We have a patent portfolio comprised of six issued patents in the United States and we have received notice of allowance from the U.S. Patent and Trademark Office for a seventh patent; we have four published/pending patent applications, one pending patent application and one patent application being prepared for filing with the Patent Cooperation Treaty ("PCT") (internationally).

We have a trademark portfolio comprised of one allowed trademark application, two published trademark applications, and six trademark registrations.

Our current patented invention relates to a server-side method and apparatus that enables users to audibly navigate websites and hear high-quality streaming audio narration and descriptions of websites. This patented invention involves creating an audio-enabled web experience by utilizing voice talent and automated text-to-speech conversion methods to read and describe web content.

Our current portfolio has established a foundation for building unique technology solutions that contribute to the way in which we differentiate ourselves from other competitors in the B2B Web Accessibility marketplace. We plan to continue to invest in research and development and expand our portfolio of proprietary intellectual property.

Business Plan and Strategy

Leveraging our own patented Ally Platform product suite, we provide cloud-based, enterprise-grade technology solutions, as well as managed services to fully implement our solution and position our clients' sites to more fully conform with web accessibility best practices. Our technology and professional service offerings may be purchased through a subscription service for either a one-year or multi-year term. Functionally, the business is organized into Executive, Sales, Marketing, Engineering (which includes intellectual property development), Implementation, Quality Assurance, and Customer Experience. Intellectual property development is tasked with the development of new leading-edge intellectual property.

Through the sale of managed and self-service contracts, our business model is to sell Business to Business and to secure revenue from multiple business channels, including (but not limited to): providers of CMS, corporate website owners, publishers, developers, and operators, federal, state and local governments, educational institutions, e-learning and e-commerce websites, kiosk companies, and not-for-profit organizations.

In what Forrester Research, Inc., a market research company that provides advice on existing and potential impact of technology, has called the "age of the customer", we believe that, by adopting our solutions, our customers gain a competitive advantage by ensuring a superior digital experience for all of their customers, in particular for persons with diverse abilities. Some of the many leading advantages of our solution include:

1. Maintaining a mission of inclusion and accessibility for the approximately 15% of the population with a disability or physical limitation who are denied full access to online digital content.

2. Increasing the client return on investment by opening access to the spending power of the 15% of the population that is denied equal access to the internet.

3. Maximizing conformance with WCAG 2.1 Success Criteria.

4. Deploying a cost-effective and fully-managed solution that is scalable with rapid deployment and little to no project management.

5. Consistently providing an enhanced customer experience for our client customers by providing access to innovative and universally designed technology solutions.

Our primary objective is to establish and maintain a long-standing relationship with our customers, as a trusted and reliable provider of web accessibility technology and services.

Product Service Offerings

AudioEye uses proprietary technology and development tools to offer advanced web accessibility fully-managed solutions that offer significant savings in time and money relative to traditional solutions. Our compliance solutions focus on rapid remediation of common accessibility issues, followed by in-depth analysis identifying and addressing a more comprehensive compliance program. Our technology was built to not only provide users with a cloud-based assistive toolset that gets embedded and made freely available to users within our client websites, but to also improve the code in a way that optimizes the user experience for users of existing third-party assistive technologies, such as screen readers.

We offer a diversified portfolio of service offerings that are broken into two broad business categories: subscription to our web accessibility technology platform and managed services.

Our web accessibility technology platform (The AudioEye Ally Platform) consists of the Digital Accessibility Platform and Ally Managed Service, which are offered as an Internet Cloud SaaS subscription service. AudioEye offers two distinct Web Accessibility solution offerings: Digital Accessibility Platform and Ally Managed Service.

The AudioEye Digital Accessibility Platform empowers web developers to improve their websites using the most current, innovative, and industry-leading tools. The Digital Accessibility Platform is primarily a self-service solution for clients who want to own the accessibility process from beginning to end and puts the power of accessibility issue tracking, auditing and remediation in the hands of developers. This improves the usability and accessibility of their web infrastructures. For organizations that are developing web accessibility, this robust site evaluation tool provides detailed information to help developers and designers fully understand the identified issues as well as the different WCAG 2.1 best practices that may be implemented in order to improve their website through changes implemented at the source. WCAG 2.1 covers a wide range of recommendations for making Web content more accessible. Following these guidelines will make content more accessible to a wider range of people with disabilities, including accommodations for blindness and low vision, deafness and hearing loss, limited movement, speech disabilities, photosensitivity, and combinations of these, and some accommodation for learning disabilities and cognitive limitations.

For organizations looking to offload the accessibility process, the Ally Managed Service allows AudioEye Accessibility Engineers and AT Usability Testers to do the vast majority of the heavy lifting in order to achieve accessibility and compliance for our clients. This unique offering leverages a balance of system and engineer generated remediation techniques to programmatically fix website problems that inhibit full access to our customers' electronic information technologies. By providing our customers with full access to the Digital Accessibility Platform and working with them on a long-term basis to provide automated and manual testing in order to allow them to fully understand the issues of accessibility and how to develop with web accessibility in mind, AudioEye is able to reduce the burden on IT resources, leaving only limited work for finite client resources. In conjunction with the implementation of the AudioEye JavaScript, AudioEye makes available the option to publish the Ally Toolbar, which includes the Help Desk and Certification Statement. The Help Desk provides support for end-users who have issues accessing content, while the Certification Statement outlines our client's commitment to providing an accessible and usable website experience for individuals with disabilities. As part of the Ally Managed Service, AudioEye makes available detailed reporting that provide the client with the results of web accessibility remediation efforts.

As an additional revenue source, AudioEye provides Managed Services that support the SaaS model infrastructure. When clients adopt the Digital Accessibility Platform as a self-service tool, AudioEye markets and sells managed services that include the following: Product Support, Accessibility Training from accessibility engineers and subject matter experts, Manual Assistive Technology Usability Testing, and other ad hoc services such as Video Transcription & Captioning, PDF Accessibility Solutions, Audio Description Authoring, Accessibility Help Desk, and more. These same services are also provided to customers adopting the Ally Managed Service solution and go beyond the inherent managed services that are part of the implementation of website remediation, the provision of the Ally Toolbar, and, ultimately, the certification of our clients' websites and web applications.

Customers

Our potential customer base includes a broad range of private and public sector customers, including, in particular:

- Corporate enterprises;
- Educational institutions;
- Federal, state, and local governments and agencies;
- Not-for-profit organizations; and
- End-user customers of the CMS website hosting providers.

If we are unable to establish, maintain or replace our relationships with customers and develop a diversified customer base, our revenues may fluctuate, and our growth may be limited. The Company had one major customer (including their affiliates) which generated approximately 11.8% of its revenue in the fiscal year ended December 31, 2018. The Company had two major customers (including their respective affiliates) which generated approximately 18.0% and 10.4%, respectively, of its revenue in the fiscal year ended December 31, 2017.

Corporate Enterprises

Our management believes that corporate enterprises and the CMS platform providers are both markets for the Company's products and services. Management believes that the AudioEye Ally Managed Service product provides a business advantage for our clients by enabling them to better reach the large population of customers who are not able to gain equal access to our clients' content, products, and services delivered via their websites.

Title III of the Americans with Disabilities Act was enacted to help eliminate barriers to access. Just as building owners must implement physical accommodations to remove any physical barrier to access, transportation, or communication, website owners must adhere to Web Accessibility best practices in order to ensure barrier-free access to their websites and online materials. Over time, a website owner must maintain and prove their implementation of those techniques, such as those outlined within the globally recognized WCAG.

Government and Not-for-Profit Organizations

Federal and state laws require that the information and services made available across government agency websites meet the diverse and unique needs of all site visitors. Conforming to Web Accessibility best practices and guidelines helps ensure public access to government information and improves the value of agency investment in their websites and online services.

The Rehabilitation Act of 1973 (“Rehabilitation Act”) requires that individuals with disabilities, who are members of the public seeking information or services from a federal department or agency, have access to and use of information and data that is comparable to that provided to the public without disabilities. The federal government also requires vendors selling to the government to be compliant under Section 508 of the Rehabilitation Act, unless covered by a provable exception. Canada and the European Union have similar requirements.

Seniors and print-impaired individuals need the Internet’s critical access to fundamental state, local and federal government services and information such as tax forms, social programs, emergency services and legislative representatives. In addition, the roughly 120,000 federal employees with disabilities require Internet accessibility for workplace productivity. The AudioEye Reader in the cloud provides an intuitive Internet experience across all Internet-enabled devices without imposing any additional costs on end-users. For government site administrators, our Digital Accessibility Platform is designed to be user-friendly so that sites can be made accessible and maintained as part of any web management process.

Over 100 governments have signed and ratified the UN Convention on the Rights of Persons with Disabilities. The Company’s certification seal demonstrates a website owner’s commitment to meeting internationally accepted accessibility standards (). As a result, our management believes that providing accessibility services for website owners and developers has become a significant market opportunity in view of the potential demand across millions of internet websites.

The AudioEye solution provides a unique approach to solving a pervasive issue that has inhibited government agencies from embracing efficiencies gained through adopting new cost-effective technological capabilities. More and more federal agencies are beginning to embrace cloud-based service offerings and to leverage the capabilities afforded through the adoption of third-party cloud-based service providers. Implementing the AudioEye solution allows federal, state, and local governments to provide constituents with a reliable, scalable, and fully accessible web environment. By pairing the AudioEye Solution with other disparate SaaS offerings, organizations can more readily comply with the ADA standards. Implementing AudioEye mitigates risk of non-conformance and goes beyond basic levels of compliance through the inclusion of free cloud-based assistive tools, which lives up to the spirit of ADA - a noble and necessary aspiration for all federal, state and local government agencies.

Our solutions are sold by our direct sales team and through strategic partnerships and resellers. This strategy enables us to address all the broad markets covered by our technology and allows for a depth and market penetration that we could never approach on our own.

Our management believes that the government market imposes certain barriers to entry to new potential entrants. However, our management believes that the potential for recurring revenue generation, the data value appreciation that occurs over time, and low turnover upon establishment of government business all contribute to ideal long-term conditions that make this a good market for us to conduct direct sales.

The federal government boasts nearly 2,000 top-level .gov domains and 24,000 websites of varying purpose, design, navigation, usability and accessibility. Including the 50 states and all local government websites, there are over 600,000 government websites in the United States.

Potential additional market segments of focus include, but are not limited to:

- Finance & Banking Institutions;

- Travel & Hospitality;

- Public & Private Transportation Companies;
- Retail and Ecommerce Companies;
- Educational Institutions (K-12 and universities as a result of frequent and recent settlement agreements involving and structured by the Department of Justice);
- Automotive;
- Food Services; and
- SaaS Providers.

Marketing and Sales

In addition to direct sales with industry specialization and geographical diversification, we use strategic business partnerships and development referral partners, who maintain a long-standing successful track record in securing introductions with C-level executives and key stakeholders that directly influence the buying decision of our technology and services. As a proven means of breaking down barriers to entry and shortening sales cycles, these strategic relationships contribute to the success of our sales operation. Conveying the return on investment of our technology to our prospective clients is critical as a differentiator in our space. Success in all these efforts is not only critical in order to meet our sales objectives, but also raises market awareness of the Company's products and brand.

The Company also attends selected accessibility and industry trade conferences, maintains memberships with key, industry-specific organizations, serves as subject matter experts within well-attended panels covering industry-related topics, leverages paid search engine optimization for those looking online to learn about or purchase accessibility products or services, and a variety of other conventional marketing and social marketing techniques.

Competition

Website accessibility can be achieved in one of two ways.

The traditional approach is called a "Shift Left" strategy. On the continuum of an organization's software development life cycle, shift left refers to integrating universal design and accessibility testing and analysis as early on in a project (the design and development process) as possible. The idea is to prohibit inaccessible content from reaching production environments**.** For many businesses and organizations with the right resources and afforded a healthy amount of time, this is absolutely the right thing to do. Without a doubt, websites should be designed, developed, and created with web accessibility in mind. This is why AudioEye offers the Digital Accessibility Platform and provides resources for organizations seeking to empower internal stakeholders to become the subject matter experts. This approach, however, does little to assist organizations being sued for websites that are already live and public facing. No one has ever been sued for a website that was being built. By the thousands, per year, businesses are being sued because of the sites they have, today, and not the sites they are looking to build in the future.

This is where we come in. AudioEye makes websites accessible. In fact, we are proud to be the web accessibility company that *revolutionized* the way businesses and organizations achieve and maintain a sustainable path to digital inclusion. Our solution identifies and remediates accessibility issues with both automated *and* manual testing and engineering and provides continuous monitoring to ensure sites meet or exceed legal compliance with ADA-related laws and substantially conform with the WCAG, which is the internationally recognized benchmark used to ensure the needs of individuals of disabilities are addressed when it comes to creating and publishing websites and digital content.

Other competitive solutions are insufficient when it comes to actually achieving substantial conformance with WCAG and removing access barriers that may impede or limit access for individuals with disabilities. These tools include:

- **Automated Testing Tools.** These tools are insufficient and not a viable solution. There are a vast number of automated testing tools. These solutions provide businesses that tend to have very little knowledge of the issues with insights into, approximately, 35% of the overall potential access barriers. Unfortunately, they do next to nothing to assist businesses in understanding true access barriers and may even provide misleading evidence (e.g. false positives) that further waste product stakeholders time (assuming the business even controls its website – i.e. many businesses rely on outsourced niche CMS providers, which leaves their hands tied when it comes to meeting compliance requirements). Further, and most importantly, these solutions do nothing to fix anything. At the very best, they offer potential insight to assist internal stakeholders with information as to how to find and potentially fix, up to only 35% of, the issues that are detected by the automated testing suite. The remaining issues require subject matter experts to uncover issues through manual accessibility (AT) testing.

- **Accessibility Toolbars.** These tools are insufficient and not a viable solution. For as many automated testing tools that can be found in the marketplace, there are just about as many low-cost accessibility toolbars, many of which emulate the leading edge, industry-first web personalization tools that AudioEye supplies free with the Ally Managed Service. On their own, these solutions provide businesses with only incremental benefits that address a small percentage of potential access barriers. Automatic remediation (if any) narrowly addresses WCAG Success Criteria, which provides very little benefit for AT users, who are the ones filing lawsuits against businesses for non-compliance. This approach has worked well in countries outside of the U.S. as evidenced by the large number of international firms attempting to enter the market in the U.S. Until these tool providers achieve validation from U.S.-based security organizations and can pass stringent due diligence examinations, they face an uphill climb. Further, and more importantly, until these tool providers are able to securely and reliably deliver human-based remediation as delivered through their dynamic remediation technology, U.S. companies will see through their façade and/or gain very little benefit by incorporating and using these highly limited solutions.

In summary, our management believes that the Company's technology and solutions will primarily compete against the following:

1. **Web Accessibility Assessment Technology Providers and Automated Testing Tools.** There are a small number of Web Accessibility audit and tracking platform providers, but we do not believe their technology solutions offer the specific end-to-end services offered through the AudioEye Digital Accessibility Platform. Furthermore, their solutions are currently more standalone in that they are not combined with a cloud-based tool with a full suite of comparable assistive tools for end-users.

2. **Web Accessibility Remediation Technology Providers.** Currently, other technology providers that utilize technology to apply compliance remediation through a server-side technology do not effectively deploy human-deployed remediations, nor do they pair their solution with the full breadth of services offered through the AudioEye Ally Platform product suite, including, for example, assistive tools for end-users. These providers are therefore limited in their capacity to provide a fully inclusive user experience for the customers adopting the technology.

3. **Web Accessibility Consulting Service Providers.** There are a substantial number of consulting service providers in the Web Accessibility industry. Each generally provides an analysis of the various compliance issues associated with its clients' websites. They ultimately provide resources and assistance in applying fixes and changes at the source. While we provide these services, we also provide tools that empower an end-to-end fully managed service, as well as tools that empower self-directed developers to fix issues without requiring source-code remediation.

4. **Cloud-Based Assistive Technology Providers and Accessibility Toolbars.** There are other cloud-based assistive technology providers. However, they do not offer a reliable and trusted solution with compliance detection and remediation for users of existing, native assistive technologies, such as screen readers.

Competitive Strengths

Our management believes the following competitive strengths will enable our success in the marketplace:

- **Unique combination of technology and specialized managed service**. Our management believes that AudioEye, unlike any other company in the marketplace, has addressed the problem of Web Accessibility, holistically, and has uniquely positioned itself to provide a combination of leading-edge technology and high-quality specialized managed service. Our one-of-a-kind, combined solution empowers our clients to provide the highest level of access and usability across their digital infrastructure, while reducing burden on finite IT resources, which leads to cost-savings and reduced time-to-market for our customers. Our management believes that the AudioEye solution allows our customers to focus not only on achieving compliance, but also on maintaining compliance throughout the life of the subscription and enabling a tangible and non-trivial return on investment – a true competitive advantage. This return on investment is derived from opening access to the approximately 15% of the population with a disability or physical limitation. This has allowed our clients to reach more customers, improve brand image, and build additional brand loyalty from their customers in a competitive manner.

- **Unique patented technology**. First and foremost, AudioEye builds all its products with the primary goal of enhancing the user experience, in every way possible, regardless of the end-user's individual disability or physical limitation. AudioEye is a marketplace technology leader providing what we believe to be unparalleled Web Accessibility solutions for our clients' customers through our Ally Platform products**.** We own a unique patent portfolio comprised of six issued patents in the United States and we have additional U.S. patents pending. Our portfolio includes patents and pending patent applications in the United States with over 60 issued claims.

Our current portfolio has established a foundation for building unique technology solutions that contribute to the way in which we differentiate ourselves from other competitors in the B2B Web Accessibility marketplace. We are actively pursuing the expansion of this portfolio to include a broad range of pertinent and novel concepts that AudioEye has employed (or is in the process of employing) for our growing client list. In this continued pursuit of expanding the capabilities of our technology and meeting the demands of our customers, AudioEye is committed to growing its IP portfolio.

- **Highly experienced inventors, technologists and product development team**. Our team is comprised of experienced software, e-commerce, mobile marketing and Internet broadcasting developers and technologists that have worked together for over fifteen years. During their careers, this team has developed several technologies programs for Fortune 500 organizations; federal, state and local governments in the United States, and several leading organizations across the global marketplace.

Patent and Trademark Rights

We have a portfolio comprised of six approved patents in the United States, and we have received a notice of allowance from the U.S. Patent and Trademark Office for a seventh patent. We also have several additional patents that are either pending or are being prepared for filing.

The patents have been extended and cover a period from 2002 through 2026. We have six issued patents and six registered trademarks with the U.S. Patent and Trademark Office.

Legal Landscape and Government Regulation

Government regulation in the United States that affects the market and commercial potential for our products and services includes the Rehabilitation Act, the ADA, Section 508 of the Rehabilitation Act, Section 504 of the Rehabilitation Act, the Twenty-First Century Communications and Video Accessibility Act of 2010 ("CVAA"), the Air Carrier Accessibility Act ("ACAA"), and various State Laws.

The Rehabilitation Act requires that individuals with disabilities, who are members of the public seeking information or services from a federal department or agency, have access to and use of information and data that is comparable to that provided to the public without disabilities. The federal government also requires vendors selling to the government be compliant under Section 508 of the Rehabilitation Act, unless covered by a provable exception. Canada and the European Union have similar requirements.

The ADA was passed to ensure equal opportunity for people with disabilities. It applies to employment, transportation, state and local government services, and businesses that provide public accommodations or facilities.

Title II and Title III of the ADA prevent discrimination on the basis of disability in services, programs, and activities provided by public entities (Title II) and private entities considered to be places of public accommodation (Title III). Title II and Section 504 of the Rehabilitation Act continue to be actively enforced by the Office of Civil Rights ("OCR"), who has entered into hundreds of resolution agreements with School Districts and Education Institutions requiring conformance to WCAG 2.1 Success Criteria as managed and monitored through an OCR-validated Accessibility Auditor.

Under the previous administration, the Department of Justice ("DOJ") was in the process of formulating rules regarding the accessibility of websites and mobile applications. The DOJ had divided its rulemaking into two efforts: the first was intended to provide guidance to state and local entities to comply with Title II, and the second was intended to establish rules for private entities to comply with Title III. Under the new administration, the DOJ has placed the issuance of those rulemakings on the inactive list. However, we believe the absence of any rulemaking will only increase the prevalence of lawsuits filed by plaintiffs seeking issue resolution in continued pursuit of their civil rights as protected under ADA. According to a leading ADA law firm, Seyfarth Shaw, with over 2,258 federal lawsuits filed, federal ADA Title III lawsuits increased by 17% in 2018 due largely to Website Access Lawsuits. This trend is expected to increase in 2019.

Learn more at www.ada.gov.

Section 508 of the Rehabilitation Act Requires that federal agencies' electronic and information technology is accessible to people with disabilities, including employees and the public.

The U.S. Government Access Board has updated the requirements to Section 508 compliance standards, commonly referred to as the "Section 508 ICT Refresh," further formalizing the mandate to adhere to specific web accessibility best practices, namely those outlined under the WCAG, the international standards for web accessibility. Already, a growing number of legal mandates and recent settlements point to the WCAG 2.1 standards as well as making it a requirement to hire third-party Accessibility Subject Matter Experts to maintain an accessibility audit and provide certification – sources range from the DOJ, the U.S. Access Board, and the OCR.

For more information, visit www.section508.gov.

Section 504 of the Rehabilitation Act entitles individuals with disabilities to equal access to any program or activity that receives federal subsidy – this includes Web-based communications for educational institutions and government agencies.

In October 2010, the CVAA was enacted to update existing federal laws requiring communications and video programming accessibility and to fill in any current gaps in accessibility to ensure the full inclusion of people with disabilities in all aspects of daily living through accessible, affordable and usable communication and video programming technologies.

Per the Department of Transportation, the ACAA (49 U.S.C. 41705) prohibits discrimination by U.S. and foreign air carriers on the basis of physical or mental disability. The Department of Transportation, in interpreting and implementing the ACAA, has issued a rule setting forth the standards of service which air carriers are expected to provide to disabled individuals.

Beyond the federal level, many states have enacted accessibility laws and, going further, internationally, over 100 Governments have signed and ratified the UN Convention on the Rights of Persons with Disabilities.

As an example, the California Unruh Civil Rights Act, among other things, prohibits discrimination based on disability. More recently, a new law enacted in California, Assembly Bill 434 State Web Accessibility, states that prior to July 1, 2019, each State Agency Director or its Chief Information Officer must post on the homepage of its agency a declaration that the site has been made accessible by meeting the WCAG standards.

Given the many government regulations in place and/or in process, actions must be taken for businesses to comply with best practices and international standards. This presents a significant business opportunity as more pressure is being put on businesses and organizations to improve the accessibility of their web environments. In addition, from a risk mitigation standpoint, it is best if they consistently and reliably track and demonstrate their level of conformance to these internationally recognized standards over time, the WCAG 2.1.

Employees

As of March 5, 2019, we had 65 full-time employees. None of our employees is subject to a collective bargaining agreement and we believe that relations with our employees are very good. We have a "People First" cultural value we aspire to every day. We have a sincere focus on developing each team member to allow the team member to grow professionally and personally during his or her time with AudioEye.

Corporate Information

AudioEye, Inc. was formed as a Delaware corporation on May 20, 2005. On August 1, 2018, the Company amended its Certificate of Incorporation to implement a reverse stock split in the ratio of 1 share for every 25 shares of common stock and to reduce the number of authorized shares of common stock from 250,000,000 to 50,000,000. As a result, 186,994,384 shares of the Company's common stock were exchanged for 7,479,775 shares of the Company's common stock. Our financial statements have been retroactively restated to reflect the reverse stock split.

Our principal executive offices are located at 5210 East Williams Circle, Suite 750, Tucson Arizona, 85711, and our telephone number at that address is (866) 331-5324. We maintain a website at www.audioeye.com (this reference to our website is an inactive textual reference only and is not intended to incorporate our website into this report). We file reports with the Securities and Exchange Commission ("SEC") and make available, free of charge, on or through our website, our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, proxy and information statements and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act, as soon as reasonably practicable after we electronically file such material with, or furnish it to, the SEC. In addition, the SEC maintains a website at www.sec.gov containing reports, proxy and information statements and other information regarding issuers that file electronically with the SEC. Information on the SEC's website does not constitute part of this report. Our website also contains copies of our corporate governance guidelines, code of business conduct and ethics, related party transaction policy and whistleblower policy, and copies of the charters for our audit committee, compensation committee and nominating and corporate governance committee.

Item 1A. Risk Factors

In addition to the other information included in this Annual Report, the following factors should be carefully considered in evaluating our business, financial position and future prospects. Any of the following risks, either alone or taken together, could materially and adversely affect our business, financial position or future prospects. If one or more of these or other risks or uncertainties materialize, or if our underlying assumptions prove to be incorrect, our actual results may vary materially from what we have projected. Investing in our common stock is highly speculative and involves a high degree of risk. Any potential investor should carefully consider the risks and uncertainties described below before purchasing any shares of our common stock. There may be additional risks that we do not presently know about or that we currently believe are immaterial which could also materially adversely affect our business, financial position or future prospects. As a result, the trading price of our stock could decline, and you might lose all or part of your investment. Our business, financial condition, and operating results, or the value of any investment you make in the stock of our company, or both, could be adversely affected by any of the factors listed and described below.

Risks Relating to Our Business and Industry

We have a history of generating significant losses and may not be able to achieve and sustain profitability.

To date, we have not been profitable, and we may never achieve profitability on a full-year or consistent basis. We incurred net losses of $5,019,874 for the year ended December 31, 2018. As of December 31, 2018, we have an accumulated deficit of $42,143,101. If we continue to experience losses, we may not be able to continue our operations, and investors may lose their entire investment.

Our future development requires substantial capital, and we may be unable to obtain needed capital or financing on satisfactory terms, or at all, which would prevent us from fully developing our business and generating revenues.

As of March 5, 2019, our cash available was $4,537,086. Our business plan will require additional capital expenditures, and our capital outlays could increase substantially over the next several years as we implement our business plan. As a result, we may need to raise additional capital, through future private or public equity offerings, strategic alliances or debt financing. Our future capital requirements will depend on many factors, including: market conditions, sales and marketing costs, mergers and acquisition activity, if any, costs of litigation in enforcing our patents, and information technology development and acquisition costs. No assurance can be given that we can successfully raise additional equity or debt capital, or that such financing will be available to us on favorable terms, if at all.

We have been subject to litigation and may in the future be subject to additional litigation, which could have a material adverse effect on our financial position or results of operations.

We may become involved in various routine disputes and allegations incidental to our business operations. Because it is not possible to determine when and whether these disputes and allegations may arise or the ultimate disposition of such matters, the resolution of any such matters, should they arise, could have a material adverse effect on our financial position or results of operations.

Current economic and credit conditions could adversely affect our plan of operations.

Our ability to secure additional financing and satisfy our financial obligations under indebtedness outstanding from time to time will depend upon our future operating performance, which is subject to the prevailing general economic and credit market conditions, including interest rate levels and the availability of credit generally, and financial, business and other factors, many of which are beyond our control. The prolonged continuation or worsening of current credit market conditions would have a material adverse effect on our ability to secure financing on favorable terms, if at all.

Our revenue and collections may be materially adversely affected by an economic downturn.

Recent macroeconomic conditions have shown signs of volatility and potential weakness. We believe commercial purchasing habits and corporate information technology budgets have improved in recent years but remain relatively constrained and subject to such volatile and potentially weak economic conditions. Any deterioration in prevailing economic conditions would likely result in reduced demand for our services and products, which could have a material adverse effect on our business financial position or results of operations.

An increase in market interest rates could increase our interest costs on future debt and could adversely affect our stock price.

If interest rates increase, so could our interest costs for any new debt. This increased cost could make financing, including the financing of any acquisition, costlier. We may incur variable interest rate indebtedness in the future. Rising interest rates could limit our ability to refinance debt when it matures or cause us to pay higher interest rates upon refinancing and increased interest expense on refinanced indebtedness.

Our success is dependent on certain members of our management and technical team.

Our success has depended, and continues to depend, on the efforts and talents of our senior management team and key employees, including our engineers, product managers, sales and marketing personnel, and professional services personnel. Our future success will also depend upon our continued ability to identify, hire and retain additional skilled and highly qualified personnel, including a new chief financial officer, which will require significant time, expense and attention. We cannot assure you that our management will remain in place or as to the time it will take for us to identify, hire and retain a new chief financial officer. We do not maintain "key person" life insurance policies. The loss of any of our management and technical team members could have a material adverse effect on our results of operations and financial condition, as well as on the market price of our common stock.

We intend to pursue new strategic opportunities which may result in the use of a significant amount of our management resources or significant costs, and we may not be able to fully realize the potential benefit of such opportunities.

We intend to seek other strategic partners to help us pursue our strategic, marketing, sales, or technical objectives. Although we may devote significant time and resources in pursuit of such transactions, we may struggle to successfully identify such opportunities, or to successfully conclude transactions with potential strategic partners. Should we be unable to identify or conclude important strategic transactions, our business prospects and operations could be adversely affected as a result of the devotion of significant managerial effort required, and the challenges of achieving our objectives in the absence of strategic partners. In addition, we may incur significant costs in connection with seeking acquisitions or other strategic opportunities regardless of whether the transaction is completed, and in combining its operations if such a transaction is completed. In the event that we consummate an acquisition or strategic alternative in the future, we cannot assure you that we would fully realize the potential benefit of such a transaction.

Our business plan may not be realized. If our business plan proves to be unsuccessful, our business may fail, and you may lose your entire investment.

Our operations are subject to all of the risks inherent in the establishment of a new business enterprise with a limited operating history. The likelihood of our success must be considered in light of the problems, expenses, complications, and delays frequently encountered in connection with the development of a new business. Unanticipated events may occur that could affect the actual results achieved during the forecast periods. Consequently, the actual results of operations during the forecast periods will vary from the forecasts, and such variations may be material. In addition, the degree of uncertainty increases with each successive year presented in our business plan. We cannot assure you that we will succeed in the anticipated operation of our business plan. If our business plan proves to be unsuccessful, our business may fail, and you may lose your entire investment.

We have experienced and will continue to experience competition as more companies seek to provide products and services similar to our products and services and because larger and better-financed competitors may affect our ability to compete in the marketplace and achieve profitability, our business may fail.

Competition in our market is intense, and we expect competition for our products and services to become even more intense. We compete directly against other companies offering similar products and services that compete or will compete directly with our proposed products and services. We also compete against established vendors in our markets. These companies may incorporate other competitive technologies into their product offerings, whether developed internally or by third parties. There are also established consultants who offer services to help their customers obtain compliance with accessibilities standards. In many cases these consultants compete for the same funding from our prospective customers. For the foreseeable future, substantially all our competitors are likely to be larger, better-financed companies that may develop products superior to our current and proposed products, which could create significant competitive advantages for those companies. Our future success depends on our ability to compete effectively with our competitors. As a result, we may have difficulty competing with larger, established competitors. Generally, these competitors have:

- substantially greater financial, technical, and marketing resources;

- a larger customer base;
- better name recognition; and
- more expansive or different product offerings.

These competitors may command a larger market share than we do, which may enable them to establish a stronger competitive position, in part, through greater marketing opportunities. Further, our competitors may be able to respond more quickly than we are to new or emerging technologies and changes in user preferences and to devote greater resources to developing new products and offering new services. These competitors may develop products or services that are comparable or superior to ours. If we fail to address competitive developments quickly and effectively, we may not be able to remain a viable business.

If we are not able to adequately protect our patented rights, our operations would be negatively impacted.

Our ability to compete largely depends on the superiority, uniqueness and value of our technology and intellectual property. To protect our intellectual property rights, we rely on a combination of patent, trademark, copyright, and trade secret laws, confidentiality agreements with our employees and third parties, and protective contractual provisions. We cannot assure you that infringement or invalidity claims (or claims for indemnification resulting from infringement claims) will not be asserted or prosecuted against us or that any such assertions or prosecutions will not materially adversely affect our business.

Regardless of whether any future claims are valid or can be successfully asserted, defending against such claims could cause us to incur significant costs, could jeopardize or substantially delay a successful outcome in any future litigation, and could divert resources away from our other activities. In addition, assertion of infringement claims could result in injunctions that prevent us from distributing our products. In addition to challenges against our existing patents, any of the following could also reduce the value of our intellectual property now, or in the future:

- our applications for patents, trademarks, and copyrights relating to our business may not be granted and, if granted, may be challenged or invalidated;
- issued trademarks, copyrights or patents may not provide us with any competitive advantages;
- our efforts to protect our intellectual property rights may not be effective in preventing misappropriation of our technology; or
- our efforts may not prevent the development and design by others of products or technologies similar to, competitive with, or superior to those that we develop.

Also, we may not be able to effectively protect our intellectual property rights in certain foreign countries where we may do business in the future or from which competitors may operate. Obtaining patents will not necessarily protect our technology or prevent our international competitors from developing similar products or technologies. Our inability to adequately protect our patented rights would have a negative impact on our operations and revenues.

In addition, legal standards relating to the validity, enforceability, and scope of protection of intellectual property rights in Internet-related businesses are uncertain and still evolving. Because of the growth of the Internet and Internet-related businesses, patent applications are continuously and simultaneously being filed in connection with Internet-related technology. There are a significant number of U.S. and foreign patents and patent applications in our areas of interest, and we believe that there has been, and is likely to continue to be, significant litigation in the industry regarding patent and other intellectual property rights.

We may commence legal proceedings against third parties who we believe are infringing on our intellectual property rights, and if we are forced to litigate to defend our intellectual property rights, or to defend claims by third parties against us relating to intellectual property rights, legal fees and court injunctions could adversely affect our financial condition and potentially end our business.

At present, we do not have any active or pending litigation related to the violation of our patents. We expect an increase in the number of third parties who could violate our patents as the market develops new uses of similar products and consumers begin to increase their adoption of the technology and integrate it into their daily lives. We foresee the potential need to enter into active litigation to defend and enforce our patents. We anticipate that these legal proceedings could continue for several years and may require significant expenditures for legal fees and other expenses. In the event we are not successful through appeal and do not subsequently obtain monetary and injunctive relief, these litigation matters may significantly reduce our financial resources and have a material impact on our ability to continue our operations. The time and effort required of our management to effectively pursue or defend these litigation matters may adversely affect our ability to operate our business, since time spent on matters related to the lawsuits would take away from the time spent on managing and operating the business. We cannot assure you any such potential lawsuits will result in an outcome that is favorable to our stockholders or the Company.

The burdens of being a public company may adversely affect our ability to develop our business and pursue a litigation strategy.

Since we are a public company, our management must devote substantial time, attention, and financial resources to comply with U.S. securities laws. This may have a material adverse effect on our management's ability to effectively and efficiently develop our business initiatives. In addition, our disclosure obligations under U.S. securities laws may require us to disclose information publicly that could have a material adverse effect on our potential litigation strategies.

The current regulatory environment for our products and services remains unclear.

We cannot assure you that our existing or planned product and service offerings will be in compliance with local, state, and/or federal U.S. laws or the laws of any foreign jurisdiction where we operate or may operate in the future. Further, we cannot assure you that we will not unintentionally violate such laws or that such laws will not be modified, or that new laws will not be enacted in the future, which would cause us to be in violation of such laws. More aggressive domestic or international regulation of the Internet may materially and adversely affect our business, financial condition, operating results, and future prospects.

As pressure of legal ramifications from non-compliance with Web Accessibility increases, customers may be less inclined to permit or may delay AudioEye from promoting client relationships and/or the specifics associated with those relationships, and if this restricts our public communications with potential investors and stockholders, it may negatively impact our ability to gain interest in our business from potential investors and stockholders.

Due to an undefined regulatory environment and a heightened sensitivity by plaintiffs seeking retribution for inaccessible and unusable digital interfaces, any organization may be sued or faced with legal demands claiming non-compliance. As these legal actions or demands may be initiated with or without merit, they present a new level of risk for website owners and publishers. In an effort to avoid any potential unwanted attention pertaining to the subject of compliance, AudioEye clients may enforce rigid stipulations pertaining to AudioEye's promotion of their involvement or engagement with AudioEye, regardless of the level of success or positive impact any such engagement may have or have had on their businesses. Whether through the enforcement of non-disclosure agreements or through specific non-disclosure language associated with client contracts, if AudioEye is not empowered to promptly make public announcements about its client base and the adoption and success of AudioEye products and services, there may be a deleterious effect on the Company's capacity to accelerate its business growth or attract investment from existing or future investors and stockholders.

Our business greatly depends on the growth of online services, Internet of Things ("IOT"), kiosks, streaming, and other next-generation Internet-based applications, which growth may not occur as expected, or at all, which would harm our business.

The Internet may ultimately prove not to be a viable commercial marketplace for such applications for several reasons, including:

- unwillingness of consumers to shift to and use other such next-generation Internet-based audio applications;
- refusal to purchase our products and services;
- perception by end-users with respect to product and service quality and performance;
- limitations on access and ease of use;
- congestion leading to delayed or extended response times;
- inadequate development of Internet infrastructure to keep pace with increased levels of use; and
- increased government regulations.

Because of these and other factors, the growth of online services, IOT, kiosks, streaming, and other next-generation Internet-based applications may be impeded or not occur as expected. As a result, our business and operations could be adversely impacted.

If the market for our online services does not grow as anticipated, our business would be adversely affected.

While other next-generation Internet-based applications have grown rapidly in personal and professional use, we cannot assure you that the adoption of our products and services will grow at a comparable rate or grow at all.

We expect that we will experience long and unpredictable sales cycles, which may impact our operating results.

We expect that our sales cycles will be long and unpredictable due to a number of uncertainties such as:

- the need to educate potential customers about the current state of accessibility for those with disabilities;
- customers' willingness to invest potentially substantial resources and infrastructures to take advantage of our products and services;
- customers' budgetary constraints;
- the timing of customers' budget cycles; and
- delays caused by customers' internal review and procurement processes.

These factors may create additional lead time before a sale is finalized and may lead to longer than expected and unpredictable sales cycles, which could delay or reduce our revenue and impact our operating results.

Our expansion into new products, services, technologies, and geographic regions subjects us to additional business, legal, financial, and competitive risks.

We may have limited or no experience in our newer market segments, and our customers may not adopt our new offerings. These offerings may present new and difficult technology challenges, and we may be subject to claims if customers of these offerings experience service disruptions or failures or other quality issues. In addition, profitability, if any, in our newer activities may be lower than in our older activities, and we may not be successful enough in these newer activities to recoup our investments in them. If any of this were to occur, it could damage our reputation, limit our growth, and negatively affect our operating results.

We face risks related to system interruption and lack of redundancy.

We experience occasional system interruptions and delays that make our websites and services unavailable or slow to respond and prevent us from efficiently providing services to third parties, which may reduce our net sales and the attractiveness of our products and services. If we are unable to continually add software and hardware, effectively upgrade our systems and network infrastructure, and take other steps to improve the efficiency of our systems, it could cause system interruptions or delays and adversely affect our operating results.

Our computer and communications systems and operations could be damaged or interrupted by fire, flood, power loss, telecommunications failure, earthquakes, acts of war or terrorism, acts of God, computer viruses, physical or electronic break-ins, and similar events or disruptions. Any of these events could cause system interruption, delays, and loss of critical data, and could prevent us from providing services, which could make our product and service offerings less attractive and subject us to liability. Our systems are not fully redundant, and our disaster recovery planning may not be sufficient. In addition, we may have inadequate insurance coverage to compensate for any related losses. Any of these events could damage our reputation and be expensive to remedy.

Government regulation is evolving, and unfavorable changes could harm our business.

We are subject to general business regulations and laws, as well as regulations and laws specifically governing the Internet, e-commerce, electronic devices, and other services. Existing and future laws and regulations may impede our growth. These regulations and laws may cover taxation, privacy, data protection, pricing, content, copyrights, distribution, mobile communications, electronic device certification, electronic waste, energy consumption, environmental regulation, electronic contracts and other communications, competition, consumer protection, web services, the provision of online payment services, information reporting requirements, unencumbered Internet access to our services, the design and operation of websites, the characteristics and quality of products and services, and the commercial operation of unmanned aircraft systems. It is not clear how existing laws governing issues such as property ownership, libel, and personal privacy apply to the Internet, e-commerce, digital content, and web services. Unfavorable regulations and laws could diminish the demand for our products and services and increase our cost of doing business.

We could be subject to additional sales tax or other indirect tax liabilities.

U.S. Supreme Court decisions restrict the imposition of obligations to collect state and local sales taxes with respect to remote sales. However, an increasing number of states have considered or adopted laws or administrative practices that attempt to impose obligations on out-of-state businesses to collect taxes on their behalf. A successful assertion by one or more states or foreign countries requiring us to collect taxes where we do not currently do so could result in substantial tax liabilities, including for past sales, as well as penalties and interest.

We may be subject to risks related to government contracts and related procurement regulations.

Our contracts with U.S., as well as state, local, and foreign, government entities are subject to various procurement regulations and other requirements relating to their formation, administration, and performance. We may be subject to audits and investigations relating to our government contracts, and any violations could result in various civil and criminal penalties and administrative sanctions, including termination of contracts, refunding or suspending of payments, forfeiture of profits, payment of fines, and suspension or debarment from future government business. In addition, such contracts may provide for termination by the government at any time, without cause.

If we do not successfully develop our planned products and services in a cost-effective manner to meet customer demand in the rapidly evolving market for next-generation Internet-based applications and services, our business may fail.

The market for next-generation Internet-based applications and services is characterized by rapidly changing technology, evolving industry standards, changes in customer needs, and frequent new service and product introductions. Our future success will depend, in part, on our ability to use new technologies effectively, to continue to develop our technical expertise and proprietary technology, to enhance our existing products and services, and to develop new products and services that meet changing customer needs on a timely and cost-effective basis. We may not be able to adapt quickly enough to changing technology, customer requirements, and industry standards. If we fail to use new technologies effectively, to develop our technical expertise and new products and services, or to enhance existing products and services on a timely basis, either internally or through arrangements with third parties, our product and service offerings may fail to meet customer needs, which would adversely affect our revenues and prospects for growth.

In addition, if we are unable to, for technological, legal, financial, or other reasons, adapt in a timely manner to changing market conditions or customer requirements, we could lose customers, strategic alliances, and market share. Sudden changes in user and customer requirements and preferences, the frequent introduction of new products and services embodying new technologies, and the emergence of new industry standards and practices could render our existing products, services and systems obsolete. The emerging nature of products and services in the technology and communications industry and their rapid evolution will require that we continually improve the performance, features, and reliability of our products and services. Our survival and success will depend, in part, on our ability to:

- design, develop, launch and/or license our planned products, services, and technologies that address the increasingly sophisticated and varied needs of our prospective customers; and

- respond to technological advances and emerging industry standards and practices on a cost-effective and timely basis.

The development of our planned products and services and other patented technology involves significant technological and business risks and requires substantial expenditures and lead time. We may be unable to use new technologies effectively. Updating our technology internally and licensing new technology from third parties may also require us to incur significant additional expenditures.

If our products and services do not gain market acceptance, we may not be able to fund future operations.

A number of factors may affect the market acceptance of our products or services or any other products or services we develop or acquire, including, among others:

- the price of our products or services relative to other competitive products and services;

- the perception by users of the effectiveness of our products and services;

- our ability to fund our sales and marketing efforts; and

- the effectiveness of our sales and marketing efforts.

If our products and services do not gain market acceptance, we may not be able to fund future operations, including the development of new products and services and/or our sales and marketing efforts for our current products and services, which inability would have a material adverse effect on our business, financial condition, and operating results.

We continually develop new products and product enhancements and actively capitalize software development costs, while making educated assumptions to anticipate the attributed revenue to be derived from each development or enhancement. If our assumptions are incorrect or if we are unable to accurately attribute revenue to each respective product or product enhancement, we may have to account for impairment, thus causing us to reverse the capitalized expenditures.

Our product developers are consistently programming new products and enhancements to existing products. Under the guidance of U.S Accounting Standard, ASC 350-40, we make determinations to estimate the useful life of each of these products and enhancements. Based on these determinations, we amortize software expenses over a pre-determined period of time. Based on our financial forecasts and regular impairment testing, we believe that cash flows will be realized from our product development and product enhancements and will be sufficient to recover the value of the Company’s expenditures. Should our estimates turn out to be inaccurate or should the business fail to attract new revenue in relation to each respective product or product enhancement, we may have to reverse or write off the related capitalized expenses.

Our products and services are highly technical and may contain undetected errors, which could cause harm to our reputation and adversely affect our business.

Our products and services are highly technical and complex and, when deployed, may contain errors or defects. Despite testing, some errors in our products and services may only be discovered after they have been installed and used by customers. Any errors or defects discovered in our products and services after commercial release could result in failure to achieve market acceptance, loss of revenue or delay in revenue recognition, loss of customers, and increased service and warranty cost, any of which could adversely affect our business, operating results and financial condition. In addition, we could face claims for product liability, tort, or breach of warranty. The performance of our products and services could have unforeseen or unknown adverse effects on the networks over which they are delivered as well as on third-party applications and services that utilize our products and services, which could result in legal claims against us, harming our business. Furthermore, we expect to provide implementation, consulting, and other technical services in connection with the implementation and ongoing maintenance of our products and services, which typically involves working with sophisticated software, computing systems, and communications systems. We expect that our contracts with customers will contain provisions relating to warranty disclaimers and liability limitations, which may not be upheld. Defending a lawsuit, regardless of its merit, is costly and may divert our management's attention and adversely affect the market's perception of us and our products and services. In addition, if our business liability insurance coverage proves inadequate or future coverage is unavailable on acceptable terms or at all, our business, operating results and financial condition could be adversely impacted.

Malfunctions of third-party communications infrastructure, hardware and software expose us to a variety of risks we cannot control, and those risks could result in harm to our business.

Our business depends upon the capacity, reliability and security of the infrastructure owned by third parties over which our product offerings are deployed. We have no control over the operation, quality or maintenance of a significant portion of that infrastructure or over whether those third parties will upgrade or improve their equipment. We do depend on these companies to maintain the operational integrity of our integrated connections. If one or more of these companies is unable or unwilling to supply or expand its levels of service in the future, our operations could be adversely impacted. System interruptions or increases in response time could result in a loss of potential or existing users and, if sustained or repeated, could reduce the appeal of the networks to users. In addition, users depend on real-time communications; outages caused by increased traffic could result in delays and system failures. These types of occurrences could cause users to perceive that our products and services do not function properly and could therefore adversely affect our ability to attract and retain strategic partners and customers.

Security breaches, computer viruses, and computer hacking attacks could harm our business, financial condition, results of operations, or reputation.

Security breaches, computer malware and computer hacking attacks have become more prevalent in our industry. Any security breach caused by hacking, which involves efforts to gain unauthorized access to information or systems, or to cause intentional malfunctions or loss or corruption of data, software, hardware or other computer equipment, or the inadvertent transmission of computer viruses could adversely affect our business, financial condition, results of operations or reputation.

Our corporate systems, third-party systems and security measures may be breached due to the actions of outside parties, employee error, malfeasance, a combination of these, or otherwise, and, as a result, an unauthorized party may obtain access to our data or any third-party data we may possess. Any such security breach could require us to comply with various breach notification laws and may expose us to litigation, remediation and investigation costs, increased costs for security measures, loss of revenue, damage to our reputation, and potential liability.

System failure or interruption or our failure to meet increasing demands on our systems could harm our business.

The success of our product and service offerings depends on the uninterrupted operation of various systems, secure data centers, and other computer and communication networks that we use or establish. To the extent the number of users of networks utilizing our future products and services suddenly increases, the technology platform and hosting services which will be required to accommodate a higher volume of traffic may result in slower response times, service interruptions or delays or system failures. The deployment of our products, services, systems and operations will also be vulnerable to damage or interruption from:

- power loss, transmission cable cuts and other telecommunications failures;
- damage or interruption caused by fire, earthquake and other natural disasters;
- computer viruses or software defects; and
- physical or electronic break-ins, sabotage, intentional acts of vandalism, terrorist attacks and other events beyond our control.

System interruptions or failures and increases or delays in response time could result in a loss of potential or existing users and, if sustained or repeated, could reduce the appeal of our products and services to users. These types of occurrences could cause users to perceive that our products and services do not function properly and could therefore adversely affect our ability to attract and retain strategic partners and customers.

Our ability to sell our solutions will be dependent on the quality of our technical support and our failure to deliver high-quality technical support services could have a material adverse effect on our sales and results of operations.

If we do not effectively assist our customers in deploying our products and services, succeed in helping our customers quickly resolve post-deployment issues and provide effective ongoing support, or if potential customers perceive that we may not be able to successfully deliver the foregoing, our ability to sell our products and services would be adversely affected, and our reputation with customers and potential customers could be harmed. As a result, our failure to deliver and maintain high-quality technical support services to our customers could result in customers choosing to use our competitors' products or services in the future.

Growth of internal operations and business may strain our financial resources.

We may need to significantly expand the scope of our operating and financial systems in order to build our business. Our growth rate may place a significant strain on our financial resources for several reasons, including, but not limited to, the following:

- the need for continued development of our financial and information management systems;
- the need to manage relationships with future resellers, distributors and strategic partners;
- the need to hire and retain skilled management, technical and other personnel necessary to support and manage our business; and
- the need to train and manage our employee base.

The addition of products and services and the attention they demand may also strain our management resources.

We do not expect to pay any dividends for the foreseeable future, which will affect the extent to which our investors realize any future gains on their investment.

We do not anticipate that we will pay any dividends to holders of our convertible preferred and common stock in the foreseeable future. Accordingly, investors must rely on the ability to convert preferred stock to common stock and on sales of their common stock after price appreciation, which may never occur, as the only way to realize any future gains on their investment.

We will need to recruit and retain additional qualified personnel to successfully grow our business.

Our future success will depend in part on our ability to attract and retain qualified operations, marketing and sales personnel as well as technical personnel. Inability to attract and retain such personnel could adversely affect our business. Competition for technical, sales, marketing and executive personnel is intense, particularly in the technology and Internet sectors. We cannot assure you that we will be able to attract or retain such personnel.

If we fail to establish and maintain effective internal control over financial reporting and effective disclosure controls, we may not be able to report financial results accurately or on a timely basis, or to detect fraud, which could have a material adverse effect on our business and stock price.

In connection with this annual report and our annual report on Form 10-K for the year ended December 31, 2017, our management carried out an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures. Based on that evaluation, our Principal Executive and Financial Officer has concluded that, primarily due to material weaknesses in our internal control over financial reporting as described in this annual report our disclosure controls and procedures were not effective as of December 31, 2017 or 2018.

In addition, our management has identified, and we have disclosed in this annual report, control deficiencies in our financial reporting process that, as of December 31, 2018, constituted material weaknesses in our internal control over financial reporting. These material weaknesses, which relate to the segregation of duties and the lack of formal policies that provide for multiple levels of supervision and reviews, also existed at December 31, 2017. Management has evaluated, and continues to evaluate, avenues for mitigating our internal controls weaknesses, but mitigating controls to completely mitigate internal control weaknesses have been deemed to be impractical and prohibitively costly, due to the size of our organization at the current time and limited capital resources. Management expects to continue to use reasonable care in following and seeking improvements to effective internal control processes that have been and continue to be in use at the Company. Our management also determined that our internal control over financial reporting was ineffective as of December 31 in each of 2012 through 2016.

Failure to establish and maintain the required internal control over financial reporting or related procedures, and to establish and maintain effective disclosure controls and procedures, or any failure of those controls or procedures once established, could adversely impact our public disclosures regarding our business, financial condition or results of operations. Upon review of the required internal control over financial reporting, our management and/or our auditors have in the past and may in the future identify material weaknesses and/or significant deficiencies that need to be addressed. Any actual or perceived weaknesses or conditions that need to be addressed in our internal control over financial reporting and disclosure of management's assessment of the Company’s internal control over financial reporting or disclosure of our public accounting firm's attestation to or report on management's assessment of our internal control over financial reporting could adversely impact the price of and our ability to list our common stock and may lead to stockholder claims and regulatory action against us. Failure to remediate our current material weaknesses or to maintain effective internal controls in the future could also result in a material misstatement of our annual or quarterly financial statements that would not be prevented or detected on a timely basis and that could cause us to restate our financial statements for a prior period, cause investors to lose confidence in our financial statements and/or limit our ability to raise capital.

Additionally, any such failure may also negatively impact our operating results and financial condition, impair our ability to timely file our periodic and other reports with the SEC, consume a significant amount of management's time, and cause us to incur substantial additional costs periods relating to the implementation of remedial measures.

Risks Related to the Market for Our Common Stock

Although our shares of common stock are now listed on the NASDAQ Capital Market, we currently have a limited trading volume, which results in higher price volatility for, and reduced liquidity of, our common stock.

Although our shares of common stock are now listed on the NASDAQ Capital Market under the symbol "AEYE," trading volume in our common stock has been limited and an active trading market for our shares of common stock may never develop or be maintained. The absence of an active trading market increases price volatility and reduces the liquidity of our common stock. As long as this condition continues, the sale of a significant number of shares of common stock at any particular time could be difficult to achieve at the market prices prevailing immediately before such shares are offered.

If we cannot continue to satisfy the continuing listing criteria of the NASDAQ Capital Market, the exchange may subsequently delist our common stock.

The NASDAQ Capital Market requires us to meet certain financial, public float, bid price and liquidity standards on an ongoing basis in order to continue the listing of our common stock. Generally, we must maintain a minimum amount of stockholders' equity and a minimum number of holders of our securities, as well as meet certain disclosure and corporate governance requirements. If we fail to meet any of the continuing listing requirements, our common stock may be subject to delisting. If our common stock is delisted and we are not able to list our common stock on another national securities exchange, we expect our securities would be quoted on an over-the-counter market. If this were to occur, our stockholders could face significant material adverse consequences, including limited availability of market quotations for our common stock and reduced liquidity for the trading of our securities. In addition, we could experience a decreased ability to issue additional securities and obtain additional financing in the future.

The market price for our common stock may fluctuate significantly, which could result in substantial losses by our investors.

The market price of our common stock may fluctuate significantly in response to numerous factors, some of which are beyond our control, such as:

- the outcomes of potential future patent litigation;
- our ability to monetize our future patents;
- changes in our industry;
- announcements of technological innovations, new products or product enhancements by us or others;
- announcements by us of significant strategic partnerships, out-licensing, in-licensing, joint ventures, acquisitions or capital commitments;
- changes in earnings estimates or recommendations by security analysts, if our common stock is covered by analysts;
- investors' general perception of us;
- future issuances of common stock;
- investors' future resales of our securities under our currently effective Registration Statement on Form S-1;
- the addition or departure of key personnel;
- general market conditions, including the volatility of market prices for shares of technology companies, generally, and other factors, including factors unrelated to our operating performance; and

· the other factors described in this “Risk Factors” section.

These factors and any corresponding price fluctuations may materially and adversely affect the market price of our common stock and result in substantial losses by our investors.

Further, the stock market in general, and the market for technology companies in particular, has experienced extreme price and volume fluctuations in the past. Continued market fluctuations could result in extreme volatility in the price of our common stock, which could cause a decline in the value of our common stock.

Price volatility of our common stock might be worse if the trading volume of our common stock is low. In the past, following periods of market volatility, stockholders have often instituted securities class action litigation. We have previously been the target of securities litigation and may in the future be subject to additional securities litigation, which could result in substantial costs to us and divert resources and attention of management from our business, even if we are successful in any such litigation. Future sales of our common stock could also reduce the market price of such stock.

Moreover, the liquidity of our common stock is limited, not only in terms of the number of shares that can be bought and sold at a given price, but by delays in the timing of transactions and reduction in security analysts’ and the media’s coverage of us, if any. These factors may result in lower prices for our common stock than might otherwise be obtained and could also result in a larger spread between the bid and ask prices for our common stock. In addition, without a large float, our common stock is less liquid than the stock of companies with broader public ownership and, as a result, the trading price of our common stock may be more volatile. In the absence of an active public trading market, an investor may be unable to liquidate its investment in our common stock. Trading of a relatively small volume of our common stock may have a greater impact on the trading price of our stock than would be the case if our public float were larger. We cannot predict the prices at which our common stock will trade in the future.

Offers or availability for sale of a substantial number of shares of our common stock may cause the price of our common stock to decline.

If our stockholders sell substantial amounts of our common stock in the public market, including pursuant to our currently effective Registration Statement on Form S-1, it could create a circumstance commonly referred to as an “overhang,” in anticipation of which the market price of our common stock could fall. The existence of an overhang, whether or not sales have occurred or are occurring, also could make more difficult our ability to raise additional financing through the sale of equity or equity-related securities in the future at a time and price that we deem reasonable or appropriate.

When we issue additional shares of common stock in the future, including additional shares of common stock upon conversion of Series A Convertible Preferred Stock, it will result in the dilution of our existing stockholders.

Our Certificate of Incorporation authorizes the issuance of up to 50,000,000 shares of common stock with a $0.00001 par value per share and 10,000,000 shares of preferred stock with a $0.00001 par value per share, of which 7,579,995 shares of common stock were issued and outstanding as of December 31, 2018 and 105,000 shares of Series A Convertible Preferred Stock were issued and outstanding as of December 31, 2018. Upon any conversion of the Series A Convertible Preferred Stock, based upon the applicable conversion rate as of December 31, 2018, approximately 283,407 shares of common stock, resulting in dilution to our existing holders of common stock. From time to time we may increase the number of shares available for issuance in connection with our equity compensation plans. Our board of directors may fix and determine the designations, rights, preferences or other variations of each class or series within each class of preferred stock and may choose to issue some or all of such shares to provide additional financing or acquire more businesses in the future.

Moreover, as of December 31, 2018, we had outstanding warrants and options to purchase an aggregate of 2,779,704 shares of our common stock, and outstanding restricted stock units covering an aggregate of 222,514 shares of common stock. The exercise of such options and warrants and the settlement of such restricted stock units would further increase the number of our outstanding shares of common stock and dilute the interests of our holders of common stock. The issuance of any shares for acquisition, licensing or financing efforts, upon conversion of any preferred stock, upon exercise of warrants and options, or upon settlement of restricted stock units may result in a reduction of the market price of our common stock. If we issue any such additional shares, such issuance will cause a reduction in the proportionate ownership and voting power of all then current stockholders.

The interests of our controlling stockholders may not coincide with yours and such controlling stockholders may make decisions with which you may disagree.

As of March 5, 2019, three of our stockholders, one of whom is our Executive Chairman, beneficially owned in the aggregate over 50% of our common stock. As a result, these stockholders may be able to influence the outcome of matters requiring stockholder approval, including the election of directors and approval of significant corporate transactions. In addition, this concentration of ownership may delay or prevent a change in control of our company and make some future transactions more difficult or impossible without the support of our controlling stockholders. The interests of our controlling stockholders may not coincide with our interests or the interests of other stockholders.

If securities or industry analysts do not publish research or publish inaccurate or unfavorable research about our business, our stock price and trading volume could decline.

The trading market for our common stock will depend in part on the research and reports that securities or industry analysts publish about us or our business. We currently have new research coverage by securities and industry analysts. If one or more of the analysts who covers us downgrades our stock or publishes inaccurate or unfavorable research about our business, our stock price would likely decline. If one or more of these analysts ceases coverage of us or fails to publish reports on us regularly, demand for our stock could decrease, which could cause our stock price and trading volume to decline.

We are subject to financial reporting and other requirements that place significant demands on our resources.

We are subject to reporting and other obligations under the Securities Exchange Act of 1934, as amended, including the requirements of Section 404 of the Sarbanes-Oxley Act of 2002. Section 404 requires us to conduct an annual management assessment of the effectiveness of our internal controls over financial reporting. These reporting and other obligations place significant demands on our management, administrative, operational, internal audit and accounting resources. Any failure to maintain effective internal controls could have a material adverse effect on our business, operating results and stock price. Moreover, effective internal control is necessary for us to provide reliable financial reports and prevent fraud. If we cannot provide reliable financial reports or prevent fraud, we may not be able to manage our business as effectively as we would if an effective control environment existed, and our business and reputation with investors may be harmed. We may also face claims by our investors, which could harm our business and financial condition.

Risks Relating to Our Charter Documents and Capital Structure

We are close to being controlled by a small number of "insider" stockholders, which could determine corporate and stockholder action on significant matters.

As of March 5, 2019, our directors, executive officers and certain other beneficial owners of our common stock, beneficially owned an aggregate of 5,686,225 shares of common stock which is approximately 74.59% of our outstanding 7,623,227 shares of common stock. Through their collective ownership of our outstanding common stock, such holders, if they were to act together, would be close to controlling the voting of our shares at all meetings of stockholders and, because the common stock does not have cumulative voting rights, would determine the outcome of the election of all of our directors and determining corporate and stockholder action on other matters. The beneficial holdings of our directors and executive officers as a group represent 26.89% of our shares of common stock on a fully diluted basis.

Provisions of our Certificate of Incorporation and bylaws could discourage potential acquisition proposals and could deter or prevent a change in control.

Some provisions in our Certificate of Incorporation and bylaws, as well as statutes, may have the effect of delaying, deterring or preventing a change in control. These provisions, including those providing for the possible issuance of shares of our preferred stock, which may be divided into series and with the preferences, limitations and relative rights to be determined by our board of directors, and the right of the board of directors to amend the bylaws, may make it more difficult for other persons, without the approval of our board of directors, to make a tender offer or otherwise acquire a substantial number of shares of our common stock or to launch other takeover attempts that a stockholder might consider to be in his or her best interest. These provisions could limit the price that some investors might be willing to pay in the future for shares of our common stock.

Delaware law may delay or prevent takeover attempts by third parties and therefore inhibit our stockholders from realizing a premium on their stock.

We are subject to the anti-takeover provisions of Section 203 of the Delaware General Corporation Law. These provisions prevent any stockholder who owns 15% or more of our outstanding shares of common stock from engaging in certain business combinations with us for a period of three years following the time that the stockholder acquired such stock ownership unless certain approvals were or are obtained from our board of directors or from the holders of 66 2/3% of our outstanding shares of common stock (excluding the shares of our common stock owned by the 15% or more stockholder). Our board of directors can use these and other provisions to discourage, delay or prevent a change in the control of our company or a change in our management. Any delay or prevention of a change of control transaction or a change in our board of directors or management could deter potential acquirers or prevent the completion of a transaction in which our stockholders could receive a substantial premium over the then current market price of our shares. These provisions could also limit the price that investors might be willing to pay for shares of our common stock.

Failure to manage growth effectively could adversely affect our business, results of operations and financial condition.

The success of our future operating activities will depend upon our ability to expand our support system to meet the demands of our growing business. Any failure by our management to effectively anticipate, implement, and manage changes required to sustain our growth would have a material adverse effect on our business, financial condition, and results of operations. We cannot assure you that we will be able to successfully operate acquired businesses (if any), become profitable in the future, or effectively manage any other change.

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

Our Certificate of Incorporation contains specific provisions that eliminate the liability of our directors for monetary damages to our company and stockholders and requires indemnification of our directors and officers to the extent provided by Delaware law. Our Bylaws also contain provisions that require the indemnification of our directors, officers and employees. We may also have contractual indemnification obligations under our employment agreements with our officers. The foregoing limitation of liability and indemnification obligations could result in our company incurring substantial expenditures to cover the cost of settlement or damage awards against directors and officers, which we may be unable to recoup. These provisions and resultant costs may also discourage our company from bringing a lawsuit against directors and officers for breaches of their fiduciary duties and may similarly discourage the filing of derivative litigation by our stockholders against our directors and officers even though such actions, if successful, might otherwise benefit our company and our stockholders.

Item 1B. Unresolved Staff Comments

Not applicable.

Item 2. Properties

The Company's principal executive offices are located at 5210 E. Williams Circle, Suite 750, Tucson, Arizona 85711, consisting of approximately 5,151 square feet as of March 5, 2019 in a facility that is leased under an agreement that expires on October 31, 2022.

The Company also leases offices in Scottsdale, Arizona; Atlanta, Georgia; and New York, New York.

We believe our current premises are suitable and adequate for our current and expected operations. We believe that suitable additional or substitute space will be available as needed to accommodate changes in our operations.

Item 3. Legal Proceedings

For a description of our material legal proceedings, see the section titled "Litigation" included in Note 11 – "Commitments and Contingencies" in the notes to the consolidated financial statements, which is incorporated by reference herein.

Item 4. Mine Safety Disclosures

Not applicable.

PART II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

Common Stock Information

Our common stock has been listed on The NASDAQ Capital Market under the symbol "AEYE" since September 4, 2018. Prior to September 4, 2018, our common stock was quoted on the OTCQB (the Venture Market) and the Over the Counter "OTC" Bulletin Board (each being part of the OTC Markets Group) since April 15, 2013 under the same symbol.

In August 2018, the Company sold in a private placement 1,000,000 shares of its common stock at $6.25 per share for net proceeds of $5,609,215, after costs and expenses of $640,785 (the "Private Placement"). The Shares were offered and sold in the Private Placement pursuant to Section 4(a)(2) of the Securities Act of 1933, as amended. At the closing of the Private Placement, the Company entered into a registration rights agreement (the "Registration Rights Agreement") with the investors pursuant to which the Company agreed to register the shares of common stock for resale. On September 4, 2018, the Company filed a registration statement on Form S-1 covering the resale or other disposition of the securities subject to the Registration Rights Agreement. The Company is obligated to use its reasonable best efforts to maintain effectiveness of the registration statement or be subject to certain penalties.

On March 5, 2019, there were 237 holders of record of our common stock, and a greater number of beneficial holders of our common stock for whom shares were held in a "nominee" or "street" name. As of that same date, there were nine holders of record of our preferred stock.

The transfer agent of our common stock is Corporate Stock Transfer, 3200 Cherry Creek Drive, Suite 430, Denver, Colorado 80209, telephone number: (303) 282-4800.

Dividend Policy

In April 2015, the Company issued 175,000 shares Series A Convertible Preferred Stock with cumulative 5% dividend rights payable when declared by the board of directors of the Company.

Dividends to preferred stockholders take precedence over any dividends to common stockholders. Holders of our common stock are entitled to receive ratably such dividends, if any, as may be declared by our board of directors out of funds legally available. We have not declared or paid any dividends on our preferred or common stock since our inception, and we presently anticipate that all earnings, if any, will be retained for development of our business. There are no restrictions in our Certificate of Incorporation or bylaws that prevent us from declaring dividends. Any future declaration of dividends will be at the discretion of our board of directors and will depend upon, among other things, our future earnings, operating and financial condition, and capital requirements.

Item 6. Selected Financial Data

Not applicable.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following discussion should be read in conjunction with our consolidated audited financial statements and the related notes for the years ended December 31, 2018 and 2017 that appear elsewhere in this annual report on Form 10-K. The following discussion contains forward-looking statements that reflect our plans, estimates and beliefs. Our actual results could differ materially from those discussed in the forward-looking statements. Factors that could cause or contribute to such differences include but are not limited to those discussed below and elsewhere in this annual report on Form 10-K, particularly in "Special Note Regarding Forward- Looking Statements" and "Risk Factors." The forward-looking statements included in this annual report on Form 10-K are made only as of the date hereof.

Background

AudioEye, Inc. was formed as a Delaware corporation on May 20, 2005. On August 1, 2018, the Company amended its Certificate of Incorporation to implement a reverse stock split in the ratio of 1 share for every 25 shares of common stock and to reduce the number of authorized shares of common stock from 250,000,000 to 50,000,000. As a result, 186,994,384 shares of the Company's common stock were exchanged for 7,479,775 shares of the Company's common stock. The financial statements have been retroactively restated to reflect the reverse stock split.

Overview

AudioEye is a marketplace leader providing web accessibility solutions for our clients' customers through our Ally Platform products. Our technology advances accessibility with patented technology solutions that reduce barriers, expand access for individuals with disabilities, and enhance the user experience for many users**.** When implemented, we believe that our solutions offer businesses, schools, and governments the opportunity to reach more customers, improve brand image, and build additional brand loyalty. In addition, our solutions help organizations comply with internationally accepted Web Content Accessibility Guidelines ("WCAG") as well as US, Canadian, Australian, and United Kingdom accessibility laws.

We generate revenues through the sale of subscriptions of our SaaS technology platform, called the AudioEye Ally Platform, to website owners, publishers, developers, and operators and through the delivery of managed services combined with the implementation of the AudioEye solution. Our solutions have been adopted by some of the largest and most influential companies in the world. Our customers span disparate industries and target market verticals, which encompass (but are not limited to) the following categories: human resources, finance, transportation, automotive, restaurant services, media, and education. Government agencies and state and local municipalities have also integrated our software in their digital platforms.

AudioEye customers fall into one of two distinct sales channels: direct and indirect. In the direct channel, AudioEye sales personnel engage directly with the customer. In the indirect channel, AudioEye engages with customers, also referred to as strategic partners, who serve as an authorized reseller of the AudioEye solution to their clients. Indirect channel sales have been a key factor in the acceleration of the AudioEye sales and marketing strategy. By working with strategically identified resellers, these partners provide a unique opportunity allowing AudioEye to onboard more customers in a shorter period of time. By working with providers of proprietary content management systems, AudioEye leverages economies of scale to deliver the AudioEye solution in a cost-effective and highly efficient way. In middle and lower markets, this strategy has helped make accessibility accessible to industries that would otherwise neglect the important issue of digital inclusion, altogether. We believe that there is significant opportunity for us to increase revenues by delivering our solutions through this indirect channel and continue to invest capital and resources in expanding our strategic partner business.

We have seen momentous growth in both our direct and indirect or 'Partner' business channels. With the significant number of additional implementations that each Partner offers, we expect revenues from our Partner channel clients would represent as much as 20% to 30% of Monthly Recurring Revenue “MRR” for 2018, and 50% to 60% of MRR by year-end 2019. Monthly Recurring Revenue is the annualized spend of the customer divided by 12. Since most of these Partners' underlying clients are billed monthly, we believe our bookings, revenue, and cash flow will converge in this segment. Renewal rates for the Direct channel continue in the range of mid to high 90%'s and renewal contract terms are increasing in length which further illustrates the confidence our customers have in the AudioEye accessibility solution.

Our accelerating topline growth is a testament to the ongoing demand for solutions aimed at addressing the broad issues of digital accessibility, and more specifically, to our internal efforts at continually refining our go-to-market strategy as well as expanding our sales and implementation teams to meet the building demand we are experiencing. AudioEye presents the only 'all-in-one solution' created to address the public call for compliance with WCAG 2.1 standards.

During the fourth quarter as well as throughout 2018, we continued to see significant growth within our direct and indirect sales channels, which was fueled by a number of factors. The increasing number of legal cases related to issues of accessibility has driven adoption of our solutions from a compliance perspective. Further, more companies are recognizing the business value of making their sites accessible to millions more consumers. Recognition of the business ROI is being sparked by demand from end-users who are letting companies and organizations know of the significant importance of accessibility to their websites.

Beyond this secular momentum, we have remained focused on several internal initiatives that are designed to make us more effective at an operational level. More specifically, we have made refinements to our lead generation processes, which has led to expansion of our overall sales pipeline, and we have continued to make enhancements to the technology that underlies our solution.

Today we have more visibility and confidence in the continued growth of our business than at any prior point as a result of the record cash contract bookings we recorded in 2018. Furthermore, we expect the demand we have generated through both our direct and indirect sales channels will support our robust growth projections for 2019. Overall, AudioEye is in its strongest position to date and believes that it has a tremendous opportunity to capitalize on the market before it. At the same time, we are dedicated to serving a vital role in leading the charge toward a more accessible online future for all.

In August 2018, the Company completed a private placement of $6.25 million (before expenses) growth equity financing with institutional investors to accelerate expansion efforts for the company's indirect partnership business. Further, we listed the company's common stock on the NASDAQ Capital Market.

Results of Operations

Our consolidated audited financial statements are stated in United States Dollars and are prepared to conform to accounting principles, generally accepted in the United States of America, and consistently applied in the preparation of the financial statements.

	Year Ended December 31,	
	2018	2017
Results of Operations		
Revenues	$ 5,660,427	$ 2,739,439
Cost of revenue	2,626,815	1,384,145
Gross profit	3,033,612	1,355,294
Selling and marketing expenses	2,462,865	1,421,127
Research and development expenses	194,429	181,303
General and administrative expenses	4,950,138	4,271,510
Operating loss	(4,573,820)	(4,518,646)
Unrealized loss on investments	(240)	(450)
Unrealized loss on derivative liabilities	-	(155,027)
Loss on settlement of debt	(267,812)	(15,724)
Interest expense, net	(178,002)	(917,992)
Net loss	$ (5,019,874)	$ (5,607,839)
Dividend on Series A convertible preferred stock	(53,740)	(75,206)
Net loss attributable to common stockholders	$ (5,073,614)	$ (5,683,045)
Net loss per weighted average common share-basic and diluted	$ (0.74)	$ (1.21)

In 2018, our net loss decreased to $5,073,614 from $5,683,045 in 2017, primarily as a result of the following:

Revenue

For the years ended December 31, 2018 and 2017, revenue in the amount of $5,660,427 and $2,739,439, respectively, consisted primarily of various levels of revenue from core product sales, software development, website design and maintenance. Revenues increased due to the execution of the Company's business plan which includes the hiring of additional sales team members, securing new negotiated channel partnerships thus increasing the volume of reselling of the AudioEye products and services, and a continued marketing focus on highly transactional industry verticals.

The following table presents our revenues disaggregated by sales channel:

	Year ended December 31,	
	2018	2017
Subscription revenue and support – Direct	$ 4,315,168	$ 2,543,947
Subscription revenue and support – Indirect (Strategic partners)	1,345,259	195,492
Total revenues	$ 5,660,427	$ 2,739,439

Cost of Revenue

For the years ended December 31, 2018 and 2017, cost of revenue in the amount of $2,626,815 and $1,384,145, respectively, consisted primarily of employee-related costs, including payroll, benefits and stock-based compensation expense for our technology operations and customer experience teams, fees paid to our managed hosting providers and other third-party service providers, amortization of capitalized software development costs and acquired technology, and allocated overhead costs. The increase in cost of revenue was due to significant increase in direct labor headcount and related payroll and use of sub-contracting to support the increase in revenues.

Gross Profit

The increase in revenue and increase in sub-contracting and direct labor costs resulted in a gross profit of $3,033,612 and $1,355,294 for the years ended December 31, 2018 and 2017, respectively. Gross profit increased as a result of increasing sales, partially offset by an increase in sub-contracting and direct labor costs. The increase in gross profit was primarily due to increased sales volume, an increasing revenue renewal rate and recognition of deferred revenue as a result of longer contracts. Advancements in the Company's technology also led to certain efficiencies in the delivery of service.

Selling and Marketing Expenses

Selling and marketing expenses were $2,462,865 and $1,421,127 for the years ended December 31, 2018 and 2017, respectively. The increase in expenses resulted primarily from staff and salary increases as we expand and grow our business lines.

Research and Development Expenses

Research and development expenses were $194,429 and $181,303 for the years ended December 31, 2018 and 2017, respectively. Research and development expenses increased predominantly as a result of an increase in technology staff.

General and Administrative Expenses

General and administrative expenses were $4,950,138 and $4,271,510 for the years ended December 31, 2018 and 2017, respectively. General and administrative expenses increased primarily as a result of added headcount, higher contract labor costs, and higher benefits costs.

Loss on change in Fair Value of Derivative Liabilities

In each of October 2015, 2016 and 2017, we issued warrants with an embedded reset provision requiring us to calculate the fair value of these derivatives each reporting period and to mark them to market as a non-cash adjustment to our current period operations. This resulted in a loss of $155,027 on change in fair value of derivative liabilities for the year ended December 31, 2017. The primary driver of the change in our derivative liability is our stock price. Generally, as our stock price increases, the liability increases resulting in a larger non-cash loss for the period to period change.

On January 1, 2018, we adopted Accounting Standards Update ("ASU") 2017-11 by electing the retrospective method to the outstanding financial instruments with a down round feature by means of a cumulative-effect adjustment to the statement of financial position as of the beginning of the fiscal year. Accordingly, we are no longer required to treat as derivatives our financial instruments with embedded anti-dilutive (reset) provisions.

Loss on settlement of Debt

In October 2018, we issued common stock upon the conversion of convertible notes payable in the amount of $224,975 plus accrued interest. In connection with this issuance, we incurred a $267,812 loss on settlement.

In November 2017, we issued common stock upon the conversion of a convertible note payable in the amount of $50,000 plus accrued interest. In connection with this issuance, we incurred a $15,724 loss on settlement.

Interest Expense, net

Interest expense, net during the year ended December 31, 2018 was $178,002 compared to $917,992 for the year ended December 31, 2017. For 2018 and 2017, interest expense, net consists primarily of amortization of debt discounts and interest incurred relating to our issued convertible notes payable.

Contracts in Process/Revenue Recognition

Under current accounting procedures, revenue is recognized when delivery of the promised goods or services is transferred to customers, in an amount that reflects the consideration that the Company expects to be entitled to in exchange for those goods or services. Certain Software as a Service ("SaaS") invoices are prepared on an annual basis. Any funds received for services not provided yet are held in deferred revenue and are recorded as revenue when earned. Subscription revenue is recognized on a ratable basis over the contractual subscription term of the arrangement beginning on the date that our service is made available to the customer. Payments received in advance of services being rendered are recorded as deferred revenue. The Company only records accounts receivable for the amount of revenue recognized as service is rendered, even if the client has been billed for the entire contract value. The table below summarizes the amount of contract value in excess of the revenue recognized of $7,601,875, our deferred revenue of $3,028,787 and amount recognized as revenue in the amount of $5,660,427 in 2018. Contract and deferred revenues are expected to be recognized in future periods. The Company also receives contracts for service hours but where total contract value is uncertain. These "fee for service contracts" are recorded in the table below only if the services have been delivered and the associated revenue has been recognized.

A summary of our contracts in process is as follows:

	Contract Amount	Revenue Recognized prior to 2018	Contracts in Process December 31, 2018 Revenue Recognized 12 Months Ended December 31, 2018	Deferred Revenue December 31, 2018	Contract Amount in Excess of Deferred Revenue and Recognized Revenue
Fixed Contracts	$ 18,482,925	$ 2,191,836	$ 5,660,427	$ 3,028,787	$ 7,601,875

Revenues for the fourth quarter of 2018 were a record $1.78 million, representing an increase of 103% from $876,000 in the same year-ago period. The revenues for the fourth quarter of 2018 represent the 12th consecutive quarter of topline growth for the Company. In addition, both deferred revenues and cash contracts in excess of revenues and deferred revenues continue to grow.

Cash contract bookings for the fourth quarter of 2018 were the highest quarter of such cash contract bookings in Company history, totaling approximately $3.50 million. This represents an increase of 124% from $1.56 million in the same year-ago period.

For the full year 2018, the Company secured a record $11.55 million in cash contract bookings, representing an increase of 83% compared to $6.31 million in 2017. During the fourth quarter as well as throughout 2018, we continued to see significant growth within our direct and indirect sales channels. The increasing number of legal cases related to issues of accessibility has driven adoption of our solutions from a compliance perspective. Further, more companies are recognizing the business value of making their sites accessible to millions more consumers. Recognition of the business ROI is being sparked by demand from end-users who are letting companies and organizations know of the significant importance of accessibility to their websites.

We have remained focused on a number of internal initiatives that are designed to make us more effective at an operational level. We have made refinements to our lead generation processes, which has led to expansion of our overall sales pipeline, and we have continued to make enhancements to the technology that underlies our solution. As we look ahead into 2019, we remain committed to making our AudioEye Ally platform an even more compelling product for our customers and an even more essential tool that enables equal opportunity for all to engage and interact in meaningful ways online.

About Key Operating Metrics

To supplement our financial information presented in accordance with generally accepted accounting principles in the United States ("GAAP"), we consider certain operating measures that are not prepared in accordance with GAAP, including monthly recurring revenue and cash contract bookings. AudioEye reviews a number of operating metrics such as these to evaluate its business, measure performance, identify trends, formulate business plans, and make strategic decisions. We believe these metrics and measures are useful to facilitate period-to-period comparisons of our business and to facilitate comparisons of our performance to that of other similar companies.

AudioEye's Cash Contract Bookings is the contracted amount of money the customer commits to spend with the Company over an agreed amount of time, generally ranging from 12 to 60 months.

AudioEye's Monthly Recurring Revenue is the annualized spend of a customer divided by 12.

Partner or Strategic Partner is a company which provides a web-hosting platform for private and public entities and resells the AudioEye Ally managed service as a new accessibility service offering to its customers.

Liquidity and Capital Resources

Working Capital

As of December 31, 2018, the Company had cash of $5,741,549 and working capital of $3,370,983. The Company used actual net cash in operations of $1,643,854 during the year ended December 31, 2018. While the Company has been successful in raising capital in the past, there is no assurance that it will be successful at raising additional capital in the future. Additionally, if the Company's plans are not achieved and/or if significant unanticipated events occur, the Company may have to further modify its business plan.

	At December 31,	
	2018	**2017**
Current assets	$ 6,140,350	$ 2,134,403
Current liabilities	2,769,367	4,333,329
Working capital (deficit)	$ 3,370,983	$ (2,198,926)

The working capital (deficit) as of December 31, 2018 and 2017 was $3,370,983 and $(2,198,926), respectively. The change in working capital was primarily due to the increase in cash balances and elimination of the non-cash derivative liability recorded in current liabilities in 2017.

Cash Flows

	December 31,	
	2018	**2017**
Net cash used in operating activities	$ (1,643,854)	$ (1,622,719)
Net cash used in investing activities	(425,783)	(424,969)
Net cash provided by financing activities	5,850,756	2,598,700
Net increase in cash	$ 3,781,119	$ 551,012

We had cash in the amount of $5,741,549 and $1,960,430 as of December 31, 2018 and December 31, 2017, respectively.

In August 2018, the Company sold 1,000,000 shares of its common stock in a private placement for a purchase price of $6.25 per share resulting in net proceeds of $5,609,215, after costs and expenses of $640,785. In addition, the Company received proceeds of $100,000 from the issuance of convertible notes in September 2018 and an additional $124,975 from the issuance of convertible notes in the subsequent month of October. It is anticipated that the Company has cash sufficient to fund operations for the next twelve months.

We may raise additional capital through the sale of equity or debt securities or borrowings from financial institutions or third parties or a combination of the foregoing. Capital raised will be used to implement our business plan, grow current operations, make acquisitions and/or start new vertical businesses among some of the possible uses.

Off-Balance Sheet Arrangements

We have no off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that are material to stockholders.

Critical Accounting Policies

The discussion and analysis of our financial condition and results of operations are based upon our consolidated financial statements, which have been prepared in accordance with the accounting principles generally accepted in the United States. Preparing financial statements requires our management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue and expenses. These estimates and assumptions are affected by our management's application of accounting policies. We believe that understanding the basis and nature of the estimates and assumptions involved with the following aspects of our financial statements is critical to an understanding of our financial statements.

Revenue Recognition

The Company recognizes revenue when delivery of the promised goods or services is transferred to its customers, in an amount that reflects the consideration that the Company expects to be entitled to in exchange for those goods or services. We determine revenue recognition through the following five steps:

- Identify the contract with the customer;
- Identify the performance obligations in the contract;
- Determine the transaction price;
- Allocate the transaction price to the performance obligations in the contract; and
- Recognize revenue when, or as, the performance obligations are satisfied.

Certain SaaS invoices are prepared on an annual basis. Subscription revenue is recognized on a ratable basis over the contractual subscription term of the arrangement beginning on the date that our service is made available to the customer. Payments received in advance of services being rendered are recorded as deferred revenue. Any funds received for services not provided yet are held in deferred revenue and are recorded as revenue when earned. We generate substantially all our revenue from subscription services, which are comprised of subscription fees from customer accounts on the Ally Platform.

Effective January 1, 2018, the Company adopted ASU 2014-09, Revenue from Contracts with Customers (Topic 606), which supersedes the revenue recognition requirements in Topic 605, Revenue Recognition, and most industry-specific revenue recognition guidance throughout the Industry Topics of the Accounting Standards Codification. The updated guidance states that an entity should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. The guidance also provides for additional disclosures with respect to revenues and cash flows arising from contracts with customers. The Company adopted the standard using the modified retrospective approach effective January 1, 2018.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Significant estimates include the fair value of the Company's stock, stock-based compensation, fair values relating to derivative liabilities, debt discounts and the valuation allowance related to deferred tax assets. Actual results may differ from these estimates.

Stock based compensation

The Company measures the cost of services received in exchange for an award of equity instruments based on the fair value of the award. For employees and directors, the fair value of the award is measured on the grant date and for non-employees, the fair value of the award is generally re-measured on vesting dates and interim financial reporting dates until the service period is complete. The fair value amount is then recognized over the period during which services are required to be provided in exchange for the award, usually the vesting period. Stock-based compensation expense is recorded by the Company in the same expense classifications in the consolidated statements of operations, as if such amounts were paid in cash.

Capitalization of Software Development Costs

In accordance with ASC 350-40, the Company capitalizes certain computer software and software development costs incurred in connection with developing or obtaining computer software for internal use when both the preliminary project stage is completed, and it is probable that the software will be used as intended. Capitalized software costs include only (i) external direct costs of materials and services utilized in developing or obtaining computer software, (ii) compensation and related benefits for employees who are directly associated with the software project and (iii) any interest costs incurred while developing internal-use computer software. Capitalized software costs are included in intangible assets on our balance sheet and amortized on a straight-line basis when placed into service over the estimated useful lives of the software.

Recent Accounting Pronouncements

In February 2016, the Financial Accounting Standards Board (“FASB”) established ASC Topic 842, Leases (Topic 842), by issuing ASU No. 2016-02, which requires lessees to recognize leases on-balance sheet and disclose key information about leasing arrangements. Topic 842 was subsequently amended by ASU No. 2018-01, Land Easement Practical Expedient for Transition to Topic 842; ASU No. 2018-10, Codification Improvements to Topic 842, Leases; and ASU No. 2018-11, Targeted Improvements. The new standard establishes a right-of-use (ROU) model that requires a lessee to recognize a ROU asset and lease liability on the balance sheet. Leases will be classified as finance or operating, with classification affecting the pattern and classification of expense recognition in the statement of operations. The Company adopted the new standard on January 1, 2019.

The new standard provides a number of optional practical expedients in transition. The Company has elected the ‘package of practical expedients’, which permit it not to reassess under the new standard its prior conclusions about lease identification, lease classification and initial direct costs. The Company does not expect to elect the use-of-hindsight or the practical expedient pertaining to land easements; the latter is not applicable to the Company.

The new standard will have a material effect on the Company’s financial statements. The most significant effects of adoption relate to (1) the recognition of new ROU assets and lease liabilities on its balance sheet for real estate operating leases; and (2) providing significant new disclosures about its leasing activities.

The new standard also provides practical expedients for an entity’s ongoing accounting. The Company will elect the short-term lease recognition exemption for all leases that qualify. This means, for those leases that qualify, the Company will not recognize ROU assets or lease liabilities, and this includes not recognizing ROU assets or lease liabilities for existing short-term leases of those assets in transition. Beginning in 2019, the Company expects changes to its disclosed lease recognition policies and practices, as well as to other related financial statement disclosures due to the adoption of this standard. These revised disclosures will be made in the Company’s first quarterly report in 2019.

In June 2018, the FASB issued ASU 2018-07, regarding ASC Topic 718 *Compensation - Stock Compensation*, which largely aligns the accounting for share-based compensation for non-employees with employees. The guidance is effective for annual reporting periods beginning after December 15, 2018, including interim periods within that reporting period. Early adoption is permitted. We do not expect the adoption of this standard to have a material effect on our consolidated financial statements.

There are various other updates recently issued, most of which represented technical corrections to the accounting literature or application to specific industries and are not expected to a have a material impact on the Company's financial position, results of operations or cash flows.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

Not applicable.

Item 8. Financial Statements and Supplementary Data

Our Financial Statements begin on page F-1 of this Annual Report on Form 10-K and are incorporated herein by reference.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

Not applicable.

Item 9A. Controls and Procedures

Conclusions of Management Regarding Effectiveness of Disclosure Controls and Procedures

At the end of the period covered by this Annual Report on Form 10-K, an evaluation was carried out under the supervision of and with the participation of our management, including our Principal Executive and Financial Officer of the effectiveness of the design and operations of our disclosure controls and procedures (as defined in Rule 13a – 15(e) and Rule 15d 15(e) under the Exchange Act) as of the end of the period covered by this report. Based on that evaluation, our Principal Executive and Financial Officer has concluded that our disclosure controls and procedures were not effective in ensuring that: (i) information required to be disclosed by the Company in reports that it files or submits to the Securities and Exchange Commission under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in applicable rules and forms and (ii) material information required to be disclosed in our reports filed under the Exchange Act is accumulated and communicated to our management, including our CEO and CFO, as appropriate, to allow for accurate and timely decisions regarding required disclosure.

Disclosure controls and procedures were not effective due primarily to a material weakness in the segregation of duties and a lack of formalized policies that provide for multiple levels of supervision and reviews in the Company's internal control over financial reporting as discussed below.

Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting for the Company (including its consolidated subsidiaries) and all related information appearing in our Annual Report on Form 10-K. Our internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with accounting principles generally accepted in the United States of America. Internal control over financial reporting includes those policies and procedures that:

1. pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of our assets;

2. provide reasonable assurance that the transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that our receipts and expenditures are being made only in accordance with the authorization of management and/or of our Board of Directors; and

3. provide reasonable assurance regarding the prevention or timely detection of any unauthorized acquisition, use or disposition of our assets that could have a material effect on our financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness in future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Management conducted an evaluation of the design and operation of our internal control over financial reporting as of December 31, 2018, based on the criteria in a framework developed by the Company's management pursuant to and in compliance with the criteria established in Internal Control – Integrated Framework (2013) issued by the Committee of Sponsoring Organizations (COSO) of the Treadway Commission. This evaluation included review of the documentation of controls, evaluation of the design effectiveness of controls, walkthroughs of the operating effectiveness of controls and a conclusion on this evaluation. Based on this evaluation, management has concluded that our internal control over financial reporting was not effective as of December 31, 2018, because management identified a material weakness in the Company's internal control over financial reporting related to the segregation of duties and a lack of formalized policies that provide for multiple levels of supervision and reviews in the Company's internal control over financial reporting as described below.

The Company concluded it is difficult with a very limited staff to maintain appropriate segregation of duties in the initiating and recording of transactions, thereby creating a segregation of duties weakness. In addition, the Company lacks formalized policies that provide for multiple levels of supervision and reviews. Due to: (i) the significance of segregation of duties to the preparation of reliable financial statements; (ii) the significance of potential misstatement that could have resulted due to the deficient controls; and (iii) the absence of sufficient other mitigating controls, we determined that this control deficiency resulted in more than a remote likelihood that a material misstatement or lack of disclosure within the annual or interim financial statements may not be prevented or detected.

Management's Remediation Initiatives

This Annual Report does not include an attestation report of the Company's registered public accounting firm regarding internal control over financial reporting. Management's report was not subject to attestation by the Company's registered public accounting firm pursuant to the rules of the Securities and Exchange Commission that permit the Company to provide only Management's report in this Annual Report.

Management has evaluated, and continues to evaluate, avenues for mitigating our internal controls weaknesses, but mitigating controls to completely mitigate internal control weaknesses have been deemed to be impractical and prohibitively costly, due to the size of our organization at the current time and limited capital resources. Management expects to continue to use reasonable care in following and seeking improvements to effective internal control processes that have been and continue to be in use at the Company. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues within the Company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of simple errors or mistakes. The design of any system of controls is based in part on certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Projections of any evaluation of controls effectiveness to future periods are subject to risks.

Item 9B. Other Information

None.

PART III

Item 10. Directors, Executive Officers and Corporate Governance

The information required by this item is hereby incorporated by reference to the definitive proxy statement for our 2019 Annual Meeting of Stockholders, which proxy statement is anticipated to be filed with the Securities and Exchange Commission within 120 days after December 31, 2018.

Item 11. Executive Compensation

The information required by this item is hereby incorporated by reference to the definitive proxy statement for our 2019 Annual Meeting of Stockholders, which proxy statement is anticipated to be filed with the Securities and Exchange Commission within 120 days after December 31, 2018.

Item 12. Security Ownership of Certain Beneficial Owners, Management and Related Stockholder Matters

The information required by this item is hereby incorporated by reference to the definitive proxy statement for our 2019 Annual Meeting of Stockholders scheduled to be held on May 10, 2019, which proxy statement is anticipated to be filed with the Securities and Exchange Commission within 120 days after December 31, 2018.

Item 13. Certain Relationships and Related Transactions and Director Independence

The information required by this item is hereby incorporated by reference to the definitive proxy statement for our 2019 Annual Meeting of Stockholders, which proxy statement is anticipated to be filed with the Securities and Exchange Commission within 120 days after December 31, 2018.

Item 14: Principal Accounting Fees and Services

The information required by this item is hereby incorporated by reference to the definitive proxy statement for our 2019 Annual Meeting of Stockholders, which proxy statement is anticipated to be filed with the Securities and Exchange Commission within 120 days after December 31, 2018.

PART IV

Item 15. Exhibits, Financial Statement Schedules

a) The following documents are filed as part of this report:

(1) Financial Statements — See Index to Consolidated Financial Statements on page F-1 below and the financial pages that follow.

(2) Financial Statements Schedules — Schedule II - Valuation and Qualifying Accounts. All schedules other than those listed above are omitted because of the absence of conditions under which they are required or because the required information is presented in the financial statements or related notes thereto.

(3) Exhibits — The following exhibits are either filed herewith or have previously been filed with the Securities and Exchange Commission and are referred to and incorporated herein by reference to such filings:

Exhibit No.	Description
3.1	Certificate of Incorporation of AudioEye, Inc., dated as of May 20, 2005 (1)
3.2	Certificate of Amendment of the Certificate of Incorporation of AudioEye, Inc., dated as of February 12, 2010 (1)
3.3	Certificate of Amendment of the Certificate of Incorporation of AudioEye, Inc., dated as of August 16, 2012 (2)
3.4	Certificate of Amendment of the Certificate of Incorporation of AudioEye, Inc., dated as of March 26, 2014 (12)
3.5	Certificate of Amendment of the Certificate of Incorporation of AudioEye, Inc., dated as of August 1, 2018 (23)
3.6	By-laws of AudioEye, Inc. (1)
4.1	Form of Warrant (13)
4.2	Form of Warrant (14)
4.3	Certificate of Designations — Series A Convertible Preferred Stock (17)
4.4	Form of Secured Convertible Promissory Note (19)
4.5	Form of Warrant (19)
4.6	Form of Warrant (20)
4.7	Form of Omnibus Amendment to Secured Convertible Promissory Notes (20)

4.8	Form of First Amendment to Common Stock Warrant (20)
4.9	Form of Registration Rights Agreement by and between AudioEye, Inc. and each Purchaser dated August 6, 2018 (25)
4.10	Form of Warrant (21)
4.11	Form of Common Stock and Warrant Purchase Agreement (21)
10.1**	AudioEye, Inc. 2012 Incentive Compensation Plan effective December 19, 2012 (4)
10.2**	AudioEye, Inc. 2013 Incentive Compensation Plan effective August 20, 2013 (8)
10.3**	Executive Employment Agreement dated August 7, 2013 between Sean Bradley and AudioEye, Inc. (7)
10.4**	Performance Share Unit Agreement dated August 7, 2013 between Sean Bradley and AudioEye, Inc. (7)
10.5**	AudioEye, Inc. 2014 Incentive Compensation Plan effective January 27, 2014 (11)
10.6**	AudioEye, Inc. 2015 Incentive Compensation Plan effective September 5, 2014 (13)
10.7**	Executive Employment Agreement dated July 1, 2015 between Dr. Carr Bettis and AudioEye, Inc. (18)
10.8**	Executive Employment Agreement dated February 13, 2018 between Todd Bankofier and AudioEye, Inc. (23)
10.9**	Executive Employment Agreement dated February 13, 2018 between Sean Bradley and AudioEye, Inc. (23)
10.10*,**	Amended and Restated Executive Employment Agreement dated February 25, 2019 between Todd Bankofier and AudioEye, Inc.
10.11*,**	Executive Employment Agreement dated February 27, 2019 between Sean Bradley and AudioEye, Inc.
10.12*,**	Executive Employment Agreement dated February 28, 2019 between Lonny Sternberg and AudioEye, Inc.
10.13*,**	AudioEye, Inc. 2016 Incentive Compensation Plan effective December 17, 2015
10.14	Note and Warrant Purchase Agreement dated October 9, 2015 between investors and AudioEye, Inc. (19)
10.15	Security Agreement dated October 9, 2015 between investors and AudioEye, Inc. (19)
10.16	Common Stock and Warrant Purchase Agreement dated April 18, 2016 between investors and AudioEye, Inc. (20)
10.17	First Amendment to Note and Warrant Purchase Agreement dated April 18, 2016 between investors and AudioEye, Inc. (20)
10.18	Second Amendment to Note and Warrant Purchase Agreement dated October 9, 2015 between investors and AudioEye. Inc (22)
10.19	Omnibus Amendment to Common Stock Warrants dated October 9, 2015 between investors and AudioEye, Inc. (22)
10.20	First Amendment to Warrant 2016-A-17 dated April 18, 2016 between Anthion Partners II, LLC and AudioEye, Inc. (22)
10.21	First Amendment to Warrant 2016-A-18 dated April 18, 2016 between Anthion Partners II, LLC and AudioEye, Inc. (22)

10.22	First Amendment to Warrant 2016-A-03 dated April 19, 2016 between David Moradi and AudioEye, Inc. (22)
10.23	First Amendment to Warrant WC-06 dated November 6, 2015 between Anthion Partners II, LLC and AudioEye, Inc. (22)
10.24	First Amendment to Warrant WC-14 dated November 6, 2015 between Anthion Partners II, LLC and AudioEye, Inc. (22)
10.25	First Amendment to Warrant 2014-B-05 dated January 15, 2015 between David Moradi and AudioEye, Inc. (22)
10.26	First Amendment to Warrant 2014-B-06 dated January 15, 2015 between David Moradi and AudioEye, Inc. (22)
10.27	First Amendment to Warrant 2013-B-26 dated June 30, 2014 between David Moradi and AudioEye, Inc. (22)
10.28	Placement Agent Agreement dated July 30, 2018 between AudioEye, Inc. and B. Riley FBR, Inc. (24)
10.29	Form of Securities Purchase Agreement by and between AudioEye, Inc. and each Purchaser dated August 6, 2018 (25)
10.30*,**	Form of Restricted Stock Unit Award Agreements for grants under the AudioEye, Inc. 2012, 2013, 2014, 2015 and 2016 Incentive Compensation Plans
10.31*,**	Form of Performance Option Agreement for grants under the AudioEye, Inc. 2012, 2013, 2014, 2015 and 2016 Incentive Compensation Plans
10.32*,**	Form of Stock Option Agreement for grants under the AudioEye, Inc. 2012, 2013, 2014, 2015 and 2016 Incentive Compensation Plans
10.33*	Convertible Promissory Note dated September 26, 2018 issued by AudioEye, Inc. to Equity Trust Custodian, FBO Alexandre Zyngier IRA
10.34*	Warrants dated September 26, 2018 issued by AudioEye, Inc. to Equity Trust Custodian, FBO Alexandre Zyngier IRA
10.35*	Schedule of Certain Parties to Securities Purchase Agreements and Registration Rights Agreements dated as of August 6, 2018
14.1*	Code of Business Conduct and Ethics
21.1*	Subsidiaries of AudioEye, Inc.
23.1*	Consent of MaloneBailey LLP, Independent Registered Public Accounting Firm
31.1*	Certification of the Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2*	Certification of the Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1#	Certification of the Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2#	Certification of the Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS*	XBRL Instance Document
101.SCH*	XBRL Taxonomy Extension Schema Document

101.CAL*	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF*	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB*	XBRL Taxonomy Extension Label Linkbase Document
101.PRE*	XBRL Taxonomy Extension Presentation Linkbase Document

* Filed herewith.
** Constitutes a management contract or compensatory plan or arrangement.
# Furnished herewith.

(1) Incorporated by reference to Form S-1, filed with the U.S. Securities and Exchange Commission (the "SEC") on October 21, 2011 (File No. 333-177463).

(2) Incorporated by reference to Form S-1/A, filed with the SEC on October 1, 2012 (File No. 333-177463).

(3) Incorporated by reference to Form S-1/A, filed with the SEC on February 10, 2012 (File No. 333-177463).

(4) Incorporated by reference to Form S-1/A, filed with the SEC on January 11, 2013 (File No. 333-177463).

(5) Incorporated by reference to Form 8-K, filed with the SEC on March 27, 2013 (File No. 333-177463).

(6) Incorporated by reference to Form 10-K, filed with the SEC on April 15, 2013 (File No. 333-177463).

(7) Incorporated by reference to Form 10-Q, filed with the SEC on August 9, 2013 (File No. 333-177463).

(8) Incorporated by reference to Form S-8, filed with the SEC on August 28, 2013 (File No. 333-177463).

(11) Incorporated by reference to Form S-1/A, filed with the SEC on February 4, 2014 (File No. 333-177463).

(12) Incorporated by reference to Form 10-K, filed with the SEC on March 31, 2014.

(13) Incorporated by reference to Form 10-Q, filed with the SEC on November 7, 2014.

(14) Incorporated by reference to Form 8-K, filed with the SEC on January 7, 2015.

(15) Incorporated by reference to Form 8-K, filed with the SEC on March 6, 2015.

(16) Incorporated by reference to Form 8-K, filed with the SEC on April 1, 2015.

(17) Incorporated by reference to Form 8-K, filed with the SEC on May 7, 2015.

(18) Incorporated by reference to Form 8-K, filed with the SEC on July 8, 2015.

(19) Incorporated by reference to Form 8-K, filed with the SEC on October 16, 2015.

(20) Incorporated by reference to Form 8-K, filed with the SEC on April 19, 2016.

(21) Incorporated by reference to Form 8-K, filed with the SEC on December 22, 2016.

(22) Incorporated by reference to Form 8-K, filed with the SEC on October 16, 2017.

(23) Incorporated by reference to Form 8-K, filed with the SEC on August 7, 2018.

(24) Incorporated by reference to Form 8-K, filed with the SEC on July 31, 2018.

(25) Incorporated by reference to Form 8-K, filed with the SEC on August 7, 2018.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized on the 27th day of March 2019.

AUDIOEYE, INC.

By: */s/ Dr. Carr Bettis*
Dr. Carr Bettis
Principal Executive Officer

By: */s/ Todd Bankofier*
Todd Bankofier
Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Dr. Carr Bettis, his attorney-in-fact, with the power of substitution, for him in any and all capacities, to sign any amendments to this Annual Report on Form 10-K and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact or his substitute or substitutes, may do or cause to be done by virtue hereof.

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

Signature	Title	Date
/s/ Dr. Carr Bettis Dr. Carr Bettis	Executive Chairman/Chairman of the Board and Director	March 27, 2019
/s/ Todd Bankofier Todd Bankofier	Chief Executive Officer	March 27, 2019
/s/ Sean Bradley Sean Bradley	President, Chief Strategy Officer, and Secretary	March 27, 2019
/s/ Anthony Coelho Anthony Coelho	Director	March 27, 2019
/s/ Ernest Purcell Ernest Purcell	Director	March 27, 2019
/s/ Alexandre Zyngier Alexandre Zyngier	Director	March 27, 2019

ITEM 8 – FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

AUDIOEYE, INC.

FINANCIAL STATEMENTS

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Shareholders and Board of Directors of
AudioEye, Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of AudioEye, Inc. and its subsidiary (collectively the “Company”) as of December 31, 2018 and 2017, and the related consolidated statements of operations, stockholders’ equity, and cash flows for the years then ended, and the related notes (collectively referred to as the “financial statements”). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 2018 and 2017, and the results of its operations and its cash flows for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

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

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

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

/s/ MaloneBailey, LLP
www.malonebailey.com
We have served as the Company's auditor since 2011.
Houston, Texas
March 27, 2019

AUDIOEYE, INC.
CONSOLIDATED BALANCE SHEETS
DECEMBER 31, 2018 AND 2017

	2018	2017
ASSETS		
Current assets:		
Cash	$ 5,741,549	$ 1,960,430
Accounts receivable, net	172,384	105,817
Marketable securities, held in related party	510	750
Deferred costs, short term	176,006	-
Prepaid expenses and other current assets	49,901	67,406
Total current assets	6,140,350	2,134,403
Property and equipment, net	108,007	34,994
Deferred costs, long term	93,790	-
Intangible assets, net	2,061,404	2,164,463
Goodwill	700,528	700,528
Total assets	$ 9,104,079	$ 5,034,388
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable and accrued expenses	$ 93,544	$ 82,628
Related party payables	14,467	23,535
Derivative liabilities	-	2,984,010
Capital leases, short term	30,172	-
Deferred rent	4,472	9,402
Deferred revenue	2,626,712	1,233,754
Total current liabilities	2,769,367	4,333,329
Long term liabilities:		
Capital leases, long term	51,150	-
Deferred rent	6,585	5,048
Deferred revenue	402,075	-
Total liabilities	3,229,177	4,338,377
Stockholders' equity:		
Preferred stock, $0.00001 par value, 10,000,000 shares authorized		
Series A Convertible Preferred stock, $0.00001 par value, 200,000 shares designated, 105,000 and 110,000 shares issued and outstanding as of December 31, 2018 and 2017, respectively	1	1
Common stock, $0.00001 par value, 50,000,000 shares authorized, 7,579,995 and 6,467,066 shares issued and outstanding as of December 31, 2018 and 2017, respectively	76	65
Additional paid-in capital	48,017,926	40,121,845
Accumulated deficit	(42,143,101)	(39,425,900)
Total stockholders' equity	5,874,902	696,011
Total liabilities and stockholders' equity	$ 9,104,079	$ 5,034,388

See Notes to Consolidated Financial Statements

AUDIOEYE, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS

	Year ended December 31,	
	2018	**2017**
Revenues	$ 5,660,427	$ 2,739,439
Cost of revenue	2,626,815	1,384,145
Gross profit	3,033,612	1,355,294
Operating expenses:		
Selling and marketing	2,462,865	1,421,127
Research and development	194,429	181,303
General and administrative	4,950,138	4,271,510
Total operating expenses	7,607,432	5,873,940
Operating loss	(4,573,820)	(4,518,646)
Other income (expense):		
Unrealized loss on derivative liabilities	-	(155,027)
Unrealized loss on marketable securities	(240)	(450)
Loss on settlement of debt	(267,812)	(15,724)
Interest income (expense), net	(178,002)	(917,992)
Total other (expenses) income	(446,054)	(1,089,193)
Net loss	(5,019,874)	(5,607,839)
Dividends on Series A convertible preferred stock	(53,740)	(75,206)
Net loss available to common stockholders	$ (5,073,614)	$ (5,683,045)
Net loss per common share-basic and diluted	$ (0.74)	$ (1.21)
Weighted average common shares outstanding-basic and diluted	6,892,238	4,693,437

See Notes to Consolidated Financial Statements

AUDIOEYE, INC.
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
TWO YEARS ENDED DECEMBER 31, 2018

	Common stock		Preferred stock		Additional Paid-in	Accumulated	
	Shares	Amount	Shares	Amount	Capital	Deficit	Total
Balance, December 31, 2016	4,460,983	$ 45	160,000	$ 2	$34,125,251	$ (33,818,061)	$ 307,237
Common stock and warrants sold for cash	442,857	5	-	-	1,549,995	-	1,550,000
Common stock issued upon conversion of preferred stock	128,161	1	(50,000)	(1)	-	-	-
Common stock issued for services	6,667	-	-	-	25,001	-	25,001
Common stock issued in exchange for exercise of warrants on a cashless basis	793,317	8	-	-	(8)	-	-
Common stock issued in exchange for exercise of warrants at $1.75 per share	120,000	1	-	-	209,999	-	210,000
Common stock issued in settlement of convertible notes and accrued interest	515,081	5	-	-	865,331	-	865,336
Loss on settlement of convertible note payable	-	-	-	-	15,724	-	15,724
Reclassify fair value of liability warrants issued in connection with sale of common stock	-	-	-	-	(6,062)	-	(6,062)
Reclassify fair value of liability warrants exercised	-	-	-	-	758,911	-	758,911
Restricted stock units, warrants and options issued for services	-	-	-	-	1,750,620	-	1,750,620
Restricted stock units issued in payment of accrued compensation	-	-	-	-	14,583	-	14,583
Beneficial conversion feature and warrants issued with convertible notes	-	-	-	-	812,500	-	812,500
Net loss	-	-	-	-	-	(5,607,839)	(5,607,839)
Balance, December 31, 2017	6,467,066	$ 65	110,000	$ 1	$40,121,845	$ (39,425,900)	$ 696,011

AUDIOEYE, INC.
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
TWO YEARS ENDED DECEMBER 31, 2018

	Common stock		Preferred stock		Additional Paid-in	Accumulated	
	Shares	Amount	Shares	Amount	Capital	Deficit	Total
Balance, December 31, 2017	6,467,066	$ 65	110,000	$ 1	$40,121,845	$ (39,425,900)	$ 696,011
Common stock sold for cash	1,000,000	10	-	-	5,609,205	-	5,609,215
Common stock issued upon conversion of preferred stock	13,204	-	(5,000)	-	-	-	-
Common stock issued in exchange for exercise of warrants on a cashless basis	5,842	-	-	-	-	-	-
Common stock issued in exchange for exercise of options on a cashless basis	3,701	-	-	-	-	-	-
Common stock issued in settlement of convertible notes and accrued interest	60,182	1	-	-	225,686	-	225,687
Common stock issued in exchange for exercise of options at $1.025 per share	20,000	-	-	-	20,500	-	20,500
Common stock issued in exchange for exercise of warrants at $1.025 per share	10,000	-	-	-	10,250	-	10,250
Effect of adoption of Accounting Codification Standard 2014-09, Revenue from Contracts with Customers	-	-	-	-	-	80,153	80,153
Reclassify derivative liability to equity upon adoption of Accounting Codification Standard 2017-11, Earnings Per Share	-	-	-	-	761,490	2,222,520	2,984,010
Warrants issued with convertible notes	-	-	-	-	175,617	-	175,617
Loss on settlement of debt	-	-	-	-	267,812	-	267,812
Restricted stock units, warrants and options issued for services	-	-	-	-	825,521	-	825,521
Net loss	-	-	-	-	-	(5,019,874)	(5,019,874)
Balance, December 31, 2018	7,579,995	$ 76	105,000	$ 1	$48,017,926	$ (42,143,101)	$ 5,874,902

See Notes to Consolidated Financial Statements

AUDIOEYE, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS

	Year ended December 31, 2018	2017
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net loss	$ (5,019,874)	$ (5,607,839)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	551,335	538,761
Amortization of debt discounts	175,617	862,500
Bad debt expense	-	3,202
Non-cash interest expense associated with derivative warrants	-	39,944
Option, warrant, RSU and PSU expense	825,521	1,750,620
Stock issued for services	-	25,001
Change in fair value of liability warrants due to exercise price reduction	-	13,262
Unrealized loss on marketable securities	240	450
Change in fair value of derivative liabilities	-	155,027
Amortization of deferred commission	103,383	-
Loss on settlement of debt	267,812	15,724
Changes in operating assets and liabilities:		
Accounts receivable	(66,567)	(64,374)
Deferred costs	(293,026)	-
Other current assets	17,505	(47,846)
Accounts payable and accruals	11,628	(160,213)
Deferred rent	(3,393)	(207)
Deferred revenue	1,795,033	847,269
Related party payables	(9,068)	6,000
Net cash used in operating activities	(1,643,854)	(1,622,719)
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchase of equipment	(10,893)	(41,167)
Purchase of domain name	(10,000)	-
Software development costs	(404,890)	(383,802)
Net cash used in investing activities	(425,783)	(424,969)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Issuance of common stock and warrants for cash	5,609,215	1,550,000
Issuance of convertible note payable-related party	50,000	-
Issuance of convertible notes payable	174,975	862,500
Proceeds from exercise of warrants	10,250	210,000
Proceeds from exercise of options	20,500	-
Repayments of notes payable and capital leases	(14,184)	(23,800)
Net cash provided by financing activities	5,850,756	2,598,700
Net increase in cash	3,781,119	551,012
Cash-beginning of period	1,960,430	1,409,418
Cash-end of period	$ 5,741,549	$ 1,960,430
SUPPLEMENTAL DISCLOSURES OF CASH FLOW INFORMATION		
Interest paid	$ 3,491	$ -
Income taxes paid	-	-
Non-cash investing and financing activities:		
Reclassify fair value of liability warrants from equity to liability upon issuance	$ -	$ 6,062
Reclassify fair value of liability warrants from liability to equity upon exercise	-	758,911
Debt discount originated from derivative feature of warrants attached to note	-	50,000
Common stock issued in settlement of convertible notes payable and accrued interest	225,687	865,336
Debt discount originated from issuance of warrant attached to notes payable	175,617	812,500
Restricted stock units issued in payment of accrued compensation	-	14,583
Common stock issued for cashless exercise of warrants and options	-	8
Common stock issued on conversion of preferred stock	-	1
Equipment acquired from capital leases	95,506	-
Reclassify fair value of warrant liabilities to equity upon adoption of ASU 2017-11	2,984,010	-
Effect of adoption of Accounting Codification Standard 2014-09, Revenue from Contracts with Customers	80,153	-

See Notes to Consolidated Financial Statements

NOTE 1 — ORGANIZATION

AudioEye, Inc. (“we”, “our”, the “Company”) was incorporated on May 20, 2005 in the state of Delaware. The Company has developed patented, Internet content publication and distribution software that enables conversion of any media into accessible formats and allows for real time distribution to end users on any Internet connected device. The Company’s focus is to create more comprehensive access to Internet, print, broadcast and other media to all people regardless of their network connection, device, location, or disabilities.

The Company is focused on developing innovations in the field of networked and device embedded audio technology. The Company owns a unique patent portfolio comprised of six issued patents in the United States, a notice of allowance from the U.S. Patent and Trademark Office for a seventh patent, and two U.S. patents pending with additional patents being drafted for filing with the U.S. Patent and Trademark Office and internationally.

Our common stock is listed on The NASDAQ Capital Market under the symbol “AEYE” since September 4, 2018. Prior to September 4, 2018, our common stock was listed on the OTCQB and the OTC Bulletin Board since April 15, 2013 under the same symbol.

In August 2018, the Company sold 1,000,000 shares of its common stock at $6.25 per share for net proceeds of $5,609,215, after costs and expenses of $640,785 (the “Private Placement”). At the closing of the Private Placement, the Company entered into a registration rights agreement (the “Registration Rights Agreement”) with the investors pursuant to which the Company agreed to register the Shares for resale. On September 4, 2018, the Company filed a registration statement on Form S-1 covering the resale or other disposition of the securities subject to the Registration Rights Agreement.

On August 1, 2018, the Company amended its Articles of Incorporation to implement a reverse stock split in the ratio of 1 share for every 25 shares of common stock and to reduce the number of authorized common stock from 250,000,000 to 50,000,000. As a result, 186,994,384 shares of the Company’s common stock were exchanged for 7,479,775 shares of the Company's common stock. These financial statements have been retroactively restated to reflect the reverse stock split. (See Note 11)

NOTE 2 — MANAGEMENT’S LIQUIDITY PLANS

As of December 31, 2018, the Company had cash of $5,741,549 and working capital of $3,370,983. In addition, the Company used actual net cash in operations of $1,643,854 during the year ended December 31, 2018.

In August 2018, the Company sold 1,000,000 shares of its common stock at $6.25 per share for net proceeds of $5,609,215, after costs and expenses of $640,785. In connection with the October 9, 2015 Note and Warrant Purchase Agreement, the Company has received proceeds from issuance of convertible notes payable of $100,000 in September 2018 and $124,975 in October 2018 (see Note 8). It is anticipated that the Company has cash sufficient to fund operations for the next twelve months.

NOTE 3 — SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

This summary of significant accounting policies is presented to assist in understanding the Company’s financial statements. These accounting policies conform to accounting principles, generally accepted in the United States of America, and have been consistently applied in the preparation of the financial statements. The Company has a fiscal year ending on December 31. Certain prior period amounts have been reclassified to conform to current period classification.

Principles of Consolidation

The consolidated financial statements include the accounts of the Company and its wholly owned subsidiary, Empire Technologies, LLC (“Empire”). All significant inter-company accounts and transactions have been eliminated. During the years ended December 31, 2018 and 2017, Empire had no activity. Empire had no assets or liabilities as of December 31, 2018 and 2017.

Revenue Recognition

Revenue is recognized when delivery of the promised goods or services is transferred to its customers, in an amount that reflects the consideration that the Company expects to be entitled to in exchange for those goods or services.

We determine revenue recognition through the following five steps:

- Identify the contract with the customer;
- Identify the performance obligations in the contract;
- Determine the transaction price;
- Allocate the transaction price to the performance obligations in the contract; and
- Recognize revenue when, or as, the performance obligations are satisfied.

Certain Software as a Service ("SaaS") invoices are prepared on an annual basis. Any funds received for services not provided yet are held in deferred revenue and are recorded as revenue when earned. Subscription revenue is recognized on a ratable basis over the contractual subscription term of the arrangement beginning on the date that our service is made available to the customer. Payments received in advance of services being rendered are recorded as deferred revenue. Any funds received for services not provided yet are held in deferred revenue and are recorded as revenue when earned. We generate substantially all our revenue from subscription services, which are comprised of subscription fees from customer accounts on the Ally Platform.

The following table presents our revenues disaggregated by type of good or service and sales channel:

	Year ended December 31,	
	2018	**2017**
Subscription revenue and support – Direct	$ 4,315,168	$ 2,543,947
Subscription revenue and support – Indirect (Strategic partners)	1,345,259	195,492
Total revenues	$ 5,660,427	$ 2,739,439

There were significant changes in contract liabilities balances during the year ended December 31, 2018. The table below summarizes the activity within the deferred revenue accounts, during the year ended December 31, 2018:

	December 31, 2017	**Cash received**	**Revenue recognized**	**December 31, 2018**
Deferred revenue	$ 1,233,754	$ 5,969,417	$ 4,174,384	$ 3,028,787

As of December 31, 2018, $2,626,712 was classified as short term and is expected to be recognized over the next twelve months. The remaining $402,075 is long-term deferred revenue to be recognized thereafter.

At December 31, 2018, the Company had one customer representing 22% of the outstanding accounts receivable. At December 31, 2017, the Company had five customers representing 18%, 14%, 14%, 13% and 10% (an aggregate of approximately 69%) of the outstanding accounts receivable.

The Company had one major customer including their affiliates which generated approximately 11.8% of its revenue in the year ended December 31, 2018.

The Company had two major customers including their affiliates which generated approximately 28.4% (18.0% and 10.4%) of its revenue in the year ended December 31, 2017.

Effective January 1, 2018, the Company adopted ASU 2014-09, Revenue from Contracts with Customers (Topic 606), which supersedes the revenue recognition requirements in Topic 605, Revenue Recognition, and most industry-specific revenue recognition guidance throughout the Industry Topics of the Accounting Standards Codification. The updated guidance states that an entity should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. The guidance also provides for additional disclosures with respect to revenues and cash flows arising from contracts with customers. The Company adopted the standard using the modified retrospective approach effective January 1, 2018.

The Company applied Topic 606 using the following practical expedients:

- The measurement of the transaction price excludes all taxes assessed by a governmental authority that are both imposed on and concurrent with a specific revenue-producing transaction and collected by the Company from a customer;
- The new revenue guidance has been applied to portfolios of contracts with similar characteristics;
- The modified retrospective approach has been applied only to contracts that are not completed contracts at the date of initial adoption;
- The value of unsatisfied performance obligations for contracts with an original expected length of one year or less has not been disclosed; and
- the costs of obtaining contracts with customers are expensed when the amortization period would have been one year or less.

The most significant impact of the standard relates to capitalizing costs to acquire contracts, which have historically been expensed as incurred. As of December 31, 2017, the Company's sales commission plans have included multiple payments, including initial payments in the period a customer contract is obtained and deferred payments over the life of the contract as future payments are collected from the customers. Under the standard, only the initial payment is subject to capitalization as the deferred payments require a substantive performance condition of the employee. These initial commission payments are now capitalized in the period a customer contract is obtained and payment is received; and will be amortized consistent with the transfer of the goods or services to the customer over the expected period of benefit. The expected period of benefit is the contract term, except when the commission payment is expected to provide economic benefit to the Company for a period longer than the contract term, such as for new customer or incremental sales where renewals are expected, and renewal commissions are not commensurate with initial commissions. Such commissions are amortized over the greater of contract term or technological obsolescence period when the underlying contracted products are technology-based, such as for the SaaS-based platforms, or the expected customer relationship period when the underlying contracted products are not technology-based, such as for patient experience survey products. Upon adoption of Topic 606, the Company reclassified $80,153 from equity previously expensed commissions to deferred costs effective January 1, 2018. See Note 6 below for a summary of activity in the deferred costs account during the year ended December 31, 2018.

Effects of adoption of ASU 2014-09 are as follows:

	At January 1, 2018:		
	Prior to adoption of ASU 2014-09	**Subsequent to adoption of ASU 2014-09**	**Change**
Accumulated deficit	$ (39,425,900)	$ (39,345,747)	$ (80,153)
Deferred commission costs	$ -	$ 80,153	$ 80,153

Cost of Revenue

Cost of revenue consists primarily of employee-related costs, including payroll, benefits and stock-based compensation expense for our technology operations and customer experience teams, fees paid to our managed hosting providers and other third-party service providers, amortization of capitalized software development costs and acquired technology, and allocated overhead costs.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Significant estimates include the fair value of the Company's stock, stock-based compensation, fair values relating to derivative liabilities, debt discounts and the valuation allowance related to deferred tax assets. Actual results may differ from these estimates.

Capitalization of Software Development Costs

In accordance with ASC 350-40, the Company capitalizes certain computer software and software development costs incurred in connection with developing or obtaining computer software for internal use when both the preliminary project stage is completed, and it is probable that the software will be used as intended. Capitalized software costs include only (i) external direct costs of materials and services utilized in developing or obtaining computer software, (ii) compensation and related benefits for employees who are directly associated with the software project and (iii) any interest costs incurred while developing internal-use computer software. Capitalized software costs are included in intangible assets on our balance sheet and amortized on a straight-line basis when placed into service over the estimated useful lives of the software (see Note 5).

Research and Technology Expenses

Research and technology expenses are expensed in the period costs are incurred. For the year ended December 31, 2018 and 2017, research and technology expenses totaled $194,429 and $181,303 respectively.

Cash and Cash Equivalents

The Company considers cash in savings accounts to be cash equivalents. The Company considers any short-term, highly liquid investments with maturities of three months or less as cash and cash equivalents. There were no cash equivalents as of December 31, 2018 and 2017.

Investments in Equity Securities

The Company has elected the fair value option under ASC 825 for its investments in marketable equity securities. Investments in marketable securities are measured at fair value through earnings and consist of common stock holdings of publicly traded companies. These equity securities are marked to market at the end of each reporting period based on the closing price of the security at each balance sheet date. Changes in fair value are recorded as unrealized gains or losses in the consolidated statement of operations in accordance with ASC 321.

From time to time, the Company invests in the securities of other entities where there exists no active market for the securities held. These strategic investments may consist of non-controlling equity investments in privately held companies. These investments without readily determinable fair values for which the Company does not have the ability to exercise significant influence are accounted for using the measurement alternative. Under the measurement alternative, the non-marketable securities are carried at cost less any impairments, plus or minus adjustments resulting from observable price changes in orderly transactions for identical or similar investments of the same issuer. Fair value is not estimated for non-marketable equity securities if there are no identified events or changes in circumstances that may have an effect on the fair value of the investment.

Allowance for Doubtful Accounts

The Company establishes an allowance for bad debts through a review of several factors including historical collection experience, current aging status of the customer accounts, and financial condition of the Company's customers. The Company does not generally require collateral for its accounts receivable. During the years ended December 31, 2018 and 2017, the Company incurred $-0- and $3,202 as bad debt expense. There was an allowance for doubtful accounts of $-0- as of December 31, 2018 and 2017.

Property and Equipment

Property and equipment are carried at the cost of acquisition or construction and depreciated over the estimated useful lives of the assets. Costs associated with repairs and maintenance are expensed as incurred. Costs associated with improvements which extend the life, increase the capacity or improve the efficiency of the Company's property and equipment are capitalized and depreciated over the remaining life of the related asset. Gains and losses on dispositions of equipment are reflected in operations. Depreciation is provided using the straight-line method over the estimated useful lives of the assets, which are 5 to 7 years.

Goodwill, Intangible Assets, and Long-Lived Assets

Goodwill is carried at cost and is not amortized. The Company tests goodwill for impairment on an annual basis at the end of each fiscal year, relying on a number of factors including operating results, business plans, economic projections, anticipated future cash flows and marketplace data. Company management uses its judgment in assessing whether goodwill has become impaired between annual impairment tests according to specifications set forth in ASC 350. The Company completed an evaluation of goodwill at December 31, 2018 and 2017 and determined that there was no impairment.

The fair value of the Company's reporting unit is dependent upon the Company's estimate of future cash flows and other factors. The Company's estimates of future cash flows include assumptions concerning future operating performance and economic conditions and may differ from actual future cash flows. Estimated future cash flows are adjusted by an appropriate discount rate derived from the Company's market capitalization plus a suitable control premium at date of the evaluation.

The financial and credit market volatility directly impacts the Company's fair value measurement through the Company's weighted average cost of capital that the Company uses to determine its discount rate and through the Company's stock price that the Company uses to determine its market capitalization. Therefore, changes in the stock price may also affect the amount of impairment recorded.

The Company recognizes an acquired intangible asset apart from goodwill whenever the intangible asset arises from contractual or other legal rights, or when it can be separated or divided from the acquired entity and sold, transferred, licensed, rented or exchanged, either individually or in combination with a related contract, asset or liability. Such intangibles are amortized over their useful lives. Impairment losses are recognized if the carrying amount of an intangible asset subject to amortization is not recoverable from expected future cash flows and its carrying amount exceeds its fair value.

The Company reviews its long-lived assets, including property and equipment, identifiable intangibles, and goodwill annually or whenever events or changes in circumstances indicate that the carrying amount of the assets may not be fully recoverable. To determine recoverability of its long-lived assets, the Company evaluates the probability that future undiscounted net cash flows will be less than the carrying amount of the assets.

Impairment of Long-Lived Assets

The Company's long-lived assets, including intangibles, are reviewed for impairment whenever events or changes in circumstances indicate that the historical-cost carrying value of an asset may no longer be appropriate. The Company assesses recoverability of the asset by comparing the undiscounted future net cash flows expected to result from the asset to its carrying value. If the carrying value exceeds the undiscounted future net cash flows of the asset, an impairment loss is measured and recognized. An impairment loss is measured as the difference between the net book value and the fair value of the long-lived asset. Long-lived assets were evaluated for impairment and no impairment losses were incurred during the years ended December 31, 2018 and 2017, respectively.

Stock based compensation

The Company measures the cost of services received in exchange for an award of equity instruments based on the fair value of the award. For employees and directors, the fair value of the award is measured on the grant date and for non-employees the fair value of the award is generally re-measured on vesting dates and interim financial reporting dates until the service period is complete. The fair value amount is then recognized over the period during which services are required to be provided in exchange for the award, usually the vesting period. Stock-based compensation expense is recorded by the Company in the same expense classifications in the consolidated statements of operations, as if such amounts were paid in cash.

Income Taxes

Deferred tax assets and liabilities are recognized for the estimated future tax consequences attributable to temporary differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. These assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which the temporary differences are expected to reverse.

The Company has net operating loss carryforwards available to reduce future taxable income. Future tax benefits for these net operating loss carryforwards are recognized to the extent that realization of these benefits is considered more likely than not. To the extent that the Company will not realize a future tax benefit, a valuation allowance is established.

Earnings (loss) per Share

Basic earnings (loss) per share is calculated by dividing net income (loss) available to common stockholders by the weighted average number of shares of the Company's common stock outstanding during the period. "Diluted earnings per share" reflects the potential dilution that could occur if our share-based awards and convertible securities were exercised or converted into common stock. The dilutive effect of our share-based awards is computed using the treasury stock method, which assumes all share-based awards are exercised and the hypothetical proceeds from exercise are used to purchase common stock at the average market price during the period. The incremental shares (difference between shares assumed to be issued versus purchased), to the extent they would have been dilutive, are included in the denominator of the diluted EPS calculation. The dilutive effect of our convertible preferred stock and convertible debentures is computed using the if-converted method, which assumes conversion at the beginning of the year.

Potentially dilutive securities excluded from the computation of basic and diluted net earnings (loss) per share for the year ended December 31, 2018 and 2017 are as follows:

	2018	2017
Preferred stock on a converted basis	283,407	284,360
Options to purchase common stock	997,989	1,003,836
Warrants to purchase common stock	1,781,715	1,919,906
Restricted stock units	222,514	156,340
Totals	3,285,625	3,364,442

Derivative Instrument Liability

The Company accounts for derivative instruments in accordance with ASC 815, which establishes accounting and reporting standards for derivative instruments and hedging activities, including certain derivative instruments embedded in other financial instruments or contracts and requires recognition of all derivatives on the balance sheet at fair value, regardless of hedging relationship designation. Accounting for changes in fair value of the derivative instruments depends on whether the derivatives qualify as hedging relationships and the types of relationships designated are based on the exposures hedged. At December 31, 2018 and 2017, the Company did not have any derivative instruments that were designated as hedges.

In 2017 and prior and in accordance with ASC 815, certain warrants with anti-dilutive provisions were deemed to be derivatives. The value of the derivative instrument will fluctuate with the price of the Company's common stock and is recorded as a current liability on the Company's Consolidated Balance Sheet. The change in the value of the liability is recorded as "unrealized gain (loss) on derivative liability" on the Consolidated Statements of Operations.

Effective January 1, 2018, the Company adopted ASU No. 2017-11, Earnings Per Share (Topic 260), Distinguishing Liabilities from Equity (Topic 480), Derivatives and Hedging (Topic 815). The amendments in Part I of this Update change the classification analysis of certain equity-linked financial instruments (or embedded features) with down round features.

When determining whether certain financial instruments should be classified as liabilities or equity instruments, a down round feature no longer precludes equity classification when assessing whether the instrument is indexed to an entity's own stock. The amendments also clarify existing disclosure requirements for equity-classified instruments. As a result, a freestanding equity-linked financial instrument (or embedded conversion option) no longer would be accounted for as a derivative liability at fair value as a result of the existence of a down round feature. For freestanding equity classified financial instruments, the amendments require entities that present earnings per share (EPS) in accordance with Topic 260 to recognize the effect of the down round feature when it is triggered. That effect is treated as a dividend and as a reduction of income available to common shareholders in basic EPS. Convertible instruments with embedded conversion options that have down round features are now subject to the specialized guidance for contingent beneficial conversion features (in Subtopic 470-20, Debt—Debt with Conversion and Other Options), including related EPS guidance (in Topic 260). The amendments in Part II of this Update recharacterize the indefinite deferral of certain provisions of Topic 480 that now are presented as pending content in the Codification, to a scope exception.

On January 1, 2018, the Company adopted ASU 2017-11 by electing the modified retrospective method to the outstanding financial instruments with a down round feature by means of a cumulative-effect adjustment to the statement of financial position as of the beginning of the fiscal year. Accordingly, the Company reclassified the fair value of the reset provisions embedded in previously issued warrants from liability to equity (accumulated deficit) in aggregate of $2,984,010.

Effects of adoption of ASU 2017-11 modified retrospective are as follows:

	At January 1, 2018:		
	Prior to adoption of ASU 2014-09	**Subsequent to adoption of ASU 2014-09**	**Change**
Derivative liabilities	$ 2,984,010	$ -	$ (2,984,010)
Additional paid in capital	40,120,293	40,881,783	761,490
Accumulated deficit	$ (39,425,900)	$ (37,203,380)	$ 2,222,520

Financial Instruments

The carrying amount of the Company's financial instruments, consisting of cash equivalents, short-term investments, account and notes receivable, accounts and notes payable, short-term borrowings and certain other liabilities, approximate their fair value due to their relatively short maturities.

Fair Value Measurements

Fair value is an estimate of the exit price, representing the amount that would be received to upon the sale of an asset or paid to transfer a liability in an orderly transaction between market participants (i.e., the exit price at the measurement date). Fair value measurements are not adjusted for transaction cost. Fair value measurement under generally accepted accounting principles provides for use of a fair value hierarchy that prioritizes inputs to valuation techniques used to measure fair value into three levels:

Level 1: Unadjusted quoted prices in active markets for identical assets or liabilities.

Level 2: Inputs other than quoted market prices that are observable, either directly or indirectly, and reasonably available. Observable inputs reflect the assumptions market participants would use in pricing the asset or liability and are developed based on market data obtained from sources independent of the Company.

Level 3: Unobservable inputs reflect the assumptions that the Company develops based on available information about what market participants would use in valuing the asset or liability.

An asset or liability's level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement. Availability of observable inputs can vary and is affected by a variety of factors. The Company uses judgment in determining fair value of assets and liabilities and Level 3 assets and liabilities involve greater judgment than Level 1 and Level 2 assets or liabilities.

In October and November 2015 and April 2017, the Company issued warrants with an exercise price of $2.50 in connection with convertible debt instruments. The five-year warrants also contain a provision that the warrant exercise price will automatically be adjusted for any common stock equity issuances at less than $2.50 per share. The Company determined that the warrants were not afforded equity classification because the warrants are not considered to be indexed to the Company's own stock due to the anti-dilution provision. Accordingly, the warrants are treated as a derivative liability and are carried at fair value.

The Company estimated the fair value of these derivative warrants at initial issuance and again at each balance sheet date. The changes in fair value are recognized in earnings in the Consolidated Statements of Operations under the caption "unrealized gain/(loss) – derivative liability" until such time as the derivative warrants are exercised or expire. The Company used the Black-Scholes Option Pricing model to estimate the fair value as of the dates of issuance, the price of the Company stock ranged $0.775 to $4.675, volatility was estimated to be 102% to 172%, the risk-free rate ranged 1.14% to 1.79% and the remaining term was 5 years.

In 2016 and 2017, the Company issued warrants with an exercise price of $6.25 in connection with the sale of the Company's common stock. The five-year warrants also contain a provision that the warrant exercise price will automatically be adjusted for any common stock equity issuances at less than $6.25 per share. The Company determined that the warrants were not afforded equity classification because the warrants are not considered to be indexed to the Company's own stock due to the anti-dilution provision. Accordingly, the warrants are treated as a derivative liability and are carried at fair value.

The Company estimated the fair value of these derivative warrants at initial issuance and again at each balance sheet date. The changes in fair value are recognized in earnings in the Consolidated Statements of Operations under the caption "unrealized gain/ (loss) – derivative liability" until such time as the derivative warrants are exercised or expire. The Company used the Black-Scholes Option Pricing model to estimate the fair value and as of the dates of issuance, the price of the Company stock ranged $3.80 to $4.875, volatility was estimated to be from 169% to 178%, the risk-free rate ranged 1.22% to 1.87% and the remaining term was 5 years. The estimated initial fair value of these warrants of $6,062 during 2017 was reclassified from equity to liability at the date of issuance.

On May 2, 2017, a warrant holder exercised a warrant to acquire 40,000 shares of the Company's common stock under a cashless provision. The Company used the Black-Scholes Option Pricing model to estimate the fair value and as of the date of exercise, the price of the Company stock was $5.00, volatility was estimated at 171%, the risk-free rate of 1.45% and the remaining term was 3.4 years. The estimated fair value of the warrant of $184,569 was reclassified from liability to equity at the date of exercise.

In October and November 2017, the Company offered, as an inducement to exercise, to reduce the exercise price of previously issued warrants from $2.50 per share to $1.75 per share. The Company used the Black-Scholes Option Pricing model to estimate the change in fair value and the dates of exercise, the price of the Company's common stock was $3.475 to $3.8725, volatility estimated from 165% to 166%, risk free rate from 1.60% to 1.99% and remaining term from 2.94 to 4.42 years. The estimated fair value of the change in warrant fair value of $13,262 was charged to current period interest expense. The estimated fair value of the warrants at the dates of exercise of $574,342 was reclassified from liability to equity at the date of exercise(s). In connection with the offering, the exercise price of an aggregate of 71,680 previously issued warrants with anti-dilutive provisions were reset from $6.25 to $1.75 per share

At December 31, 2017, the price of the Company stock was $3.8725, volatility was estimated to be 163.9%, the risk-free rate from 1.98% to 2.20% and the remaining term ranged from 2.77 to 4.03 years. As of December 31, 2017, the fair value of the warrants was determined to be $2,984,010, resulting in an unrealized loss on the change in the fair value of this derivative liability of $155,027 for the year ended December 31, 2017.

Effective January 1, 2018, the Company adopted ASU No. 2017-11, Earnings Per Share (Topic 260), Distinguishing Liabilities from Equity (Topic 480), Derivatives and Hedging (Topic 815). See discussion above. The following are the Company's assets and liabilities, measured at fair value on a recurring basis, as of December 31, 2018 and 2017:

		Fair Value	Fair Value Hierarchy
Assets			
Marketable securities, December 31, 2018	$	510	Level 1
Marketable securities, December 31, 2017	$	750	Level 1
Liabilities			
Derivative liabilities, December 31, 2018	$	-	Level 3
Derivative liabilities, December 31, 2017	$	2,984,010	Level 3

Recent Accounting Pronouncements

In February 2016, the Financial Accounting Standards Board ("FASB") established ASC Topic 842, Leases (Topic 842), by issuing ASU No. 2016-02, which requires lessees to recognize leases on-balance sheet and disclose key information about leasing arrangements. Topic 842 was subsequently amended by ASU No. 2018-01, Land Easement Practical Expedient for Transition to Topic 842; ASU No. 2018-10, Codification Improvements to Topic 842, Leases; and ASU No. 2018-11, Targeted Improvements. The new standard establishes a right-of-use (ROU) model that requires a lessee to recognize a ROU asset and lease liability on the balance sheet. Leases will be classified as finance or operating, with classification affecting the pattern and classification of expense recognition in the statement of operations. The Company adopted the new standard on January 1, 2019.

The new standard provides a number of optional practical expedients in transition. The Company has elected the 'package of practical expedients', which permit it not to reassess under the new standard its prior conclusions about lease identification, lease classification and initial direct costs. The Company does not expect to elect the use-of-hindsight or the practical expedient pertaining to land easements; the latter is not applicable to the Company.

The new standard will have a material effect on the Company's financial statements. The most significant effects of adoption relate to (1) the recognition of new ROU assets and lease liabilities on its balance sheet for real estate operating leases; and (2) providing significant new disclosures about its leasing activities.

The new standard also provides practical expedients for an entity's ongoing accounting. The Company will elect the short-term lease recognition exemption for all leases that qualify. This means, for those leases that qualify, the Company will not recognize ROU assets or lease liabilities, and this includes not recognizing ROU assets or lease liabilities for existing short-term leases of those assets in transition. Beginning in 2019, the Company expects changes to its disclosed lease recognition policies and practices, as well as to other related financial statement disclosures due to the adoption of this standard. These revised disclosures will be made in the Company's first quarterly report in 2019.

In June 2018, the FASB issued ASU 2018-07, regarding ASC Topic 718 *Compensation - Stock Compensation*, which largely aligns the accounting for share-based compensation for non-employees with employees. The guidance is effective for annual reporting periods beginning after December 15, 2018, including interim periods within that reporting period. Early adoption is permitted. We do not expect the adoption of this standard to have a material effect on our consolidated financial statements.

There are various other updates recently issued, most of which represented technical corrections to the accounting literature or application to specific industries and are not expected to a have a material impact on the Company's financial position, results of operations or cash flows.

NOTE 4 — PROPERTY AND EQUIPMENT

Property and equipment as of December 31, 2018 and 2017 is summarized as follows:

	2018	2017
Computer equipment	$ 62,170	$ 63,517
Equipment under capital lease	95,506	-
Furniture and fixtures	4,968	3,128
Total	162,644	66,645
Less accumulated depreciation	(54,637)	(31,651)
Property and equipment, net	$ 108,007	$ 34,994

Property and equipment are stated at cost and depreciated using the straight-line method over their estimated useful life of 3 years. When retired or otherwise disposed, the related carrying value and accumulated depreciation are removed from the respective accounts and the net difference less any amount realized from disposition, is reflected in earnings.

Included in net property are assets under capital leases of $95,506, less accumulated depreciation of $16,117 as of December 31, 2018 and $0, less accumulated depreciation of $0 as of December 31, 2017, respectively.

The Company spent $10,893 in purchases and leased $95,506 of equipment during the year ended December 31, 2018 and $41,167 in purchases of equipment during the year ended December 31, 2017. Depreciation expense was $33,386 and $6,173 for the year ended December 31, 2018 and 2017.

NOTE 5 — INTANGIBLE ASSETS

For the year ended December 31, 2018 and 2017, the Company invested in software development costs in the amounts of $404,890 and $383,802 respectively and acquired a domain name in 2018 in the amount of $10,000.

Patents, technology and other intangibles with contractual terms are generally amortized over their estimated useful lives of ten years. When certain events or changes in operating conditions occur, an impairment assessment is performed and lives of intangible assets with determinable lives may be adjusted. Due to the Company’s history of operating losses, intangible assets were evaluated for impairment and no impairment losses were incurred during the years ended December 31, 2018 and 2017, respectively.

Software development costs are amortized over their estimated useful life of three years.

Intangible assets consisted of the following:

	2018	2017
Patents	$ 3,697,709	$ 3,697,709
Capitalized software development	1,410,259	1,005,369
Domain name	10,000	-
Accumulated amortization	(3,056,564)	(2,538,615)
Intangible assets, net	$ 2,061,404	$ 2,164,463

Amortization expense for patents totaled $374,632 and $379,158 for the year ended December 31, 2018 and 2017, respectively. Amortization expense for software development totaled $143,317 and $153,430 for the years ended December 31, 2018 and 2017, respectively.

Total amortization expense totaled $517,949 and $532,588 for the year ended December 31, 2018 and 2017, respectively.

NOTE 6 — DEFERRED COSTS

Effective January 1, 2018, the Company capitalizes initial and renewal sales commission payments in the period a customer contract is obtained, and payment is received; and is amortized consistent with the transfer of the goods or services to the customer over the expected period of benefit, which we have deemed to be the contract term.

Such commissions are amortized over the greater of contract term or technological obsolescence period when the underlying contracted products are technology-based, such as for the SaaS-based platforms, or the expected customer relationship period when the underlying contracted products are not technology-based, such as for patient experience survey products. The table below summarizes the activity within the deferred commission costs account, during the year ended December 31, 2018:

	January 1, 2018	Commission Costs Deferred	Commission Amortized	December 31, 2018
Deferred costs, short term	$ 80,153	$ 199,236	$ (103,383)	$ 176,006
Deferred costs, long term	-	93,790	-	93,790
Deferred commission costs	$ 80,153	$ 293,026	$ (103,383)	$ 269,796

During the year ended December 31, 2018, the Company deferred an aggregate $293,026 commissions paid and reclassified from equity $80,153 previously paid and expensed commissions. Amortization of deferred costs for the year ended December 31, 2018 was $103,383.

NOTE 7 — CAPITAL LEASES

	2018	2017
Capital equipment lease dated April 5, 2018	$ 13,056	$ -
Capital equipment lease dated May 8, 2018	14,525	-
Capital equipment lease dated June 27, 2018	21,701	-
Capital equipment lease dated September 18, 2018	15,368	-
Capital equipment lease dated September 28, 2018	16,672	
Total capital leases payable	81,322	-
Less current portion	(30,172)	-
Long term portion	$ 51,150	$ -

During the year ended December 31, 2018, the Company entered into five capital leases for computer equipment for a three-year term. The Company recognized these arrangements as capital leases based on the determination the leases exceeded 75% of the economic life of the underlying assets. The Company initially recorded the equipment and the capitalized lease liability at the estimated present value of the minimum lease payments of $95,506.

The leases include base monthly payments in aggregate of $2,894, due on the contract monthly anniversary of each calendar month. At the expiration of the lease, the Company is required to return all leased equipment to the lessor with right of repurchase at fair value. The Company has made payments in the amount of $14,184 during the year ended December 31, 2018. The effective interest rate of the capitalized lease is estimated at 6.00% based on the implicit rate in the lease agreements.

The following summarizes the assets under capital leases:

	2018	2017
Classes of property		
Computer equipment	$ 95,506	$ -
Less: accumulated depreciation	(16,117)	-
	$ 79,389	$ -

The following summarizes total future minimum lease payments at December 31, 2018:

Period ending December 31,		
2019	$	34,729
2020		34,729
2021		18,985
Total minimum lease payments		88,443
Amount representing interest		7,121
Present value of minimum lease payments		81,322
Current portion of capital lease obligations		30,172
Capital lease obligation, less current portion	$	51,150

NOTE 8 — CONVERTIBLE NOTES PAYABLE

2017:

On April 11, 2017, the Company issued a convertible promissory note in the principal amount of $50,000 (the "Note") and warrant (the "Warrant") to purchase 20,000 shares of common stock of the Company. The Note and Warrant were issued in connection with an election granted under our October 9, 2015 Note and Warrant Purchase Agreement (the "October 2015 Purchase Agreement") whereby any investor in the October 2015 Purchase Agreement within the three-year period immediately following the initial closing date, may purchase an additional note in the principal amount equal to 50% of the principal amount of the initial note purchased by such investor at previous closings and an additional warrant with an aggregate exercise price equal to such investor's the principal amount of such additional note.

The Note bears interest at 10% and matures the earlier of October 9, 2018 or after the occurrence an event of default (as defined in the Note). In the event of any conversion, all interest shall be also converted into equity and shall not be payable in cash.

If the Company sells equity securities in a single transaction or series of related transactions for cash of at least $1,000,000 (excluding the conversion of the Note and excluding the shares of common stock to be issued upon exercise of the warrants) on or before the maturity date, all of the unpaid principal on the Note plus accrued interest shall be automatically converted at the closing of the equity financing into a number of shares of the same class or series of equity securities as are issued and sold by the Company in such equity financing (or a class or series of equity securities identical in all respects to and ranking pari passu with the class or series of equity securities issued and sold in such equity financing) as is determined by dividing (i) the principal and accrued and unpaid interest amount of the Note by (ii) 60% of the price per share at which such equity securities are issued and sold in such equity financing.

The Warrant is exercisable at $2.50 per share and expires 5 years following the date of issuance. The Warrant is subject to anti-dilution protection, subject to certain customary exceptions.

The estimated fair value of the issued warrant of $89,944 was charged as a debt discount up to the net proceeds of the note ($50,000) and the excess ($39,944) recorded as current period interest expense. The Company amortized $50,000 of the debt discount to current period operations as interest expense for the year ended December 31, 2017.

On November 30, 2017, the Company issued 31,450 shares of the Company's in full settlement of the promissory note and accrued interest of $2,836. In connection with the settlement, the Company incurred a $15,724 loss on settlement of debt.

On October 11, 2017, the "Company entered into a Second Amendment to the Note and Warrant Purchase Agreement (the "Purchase Agreement Amendment") and an Omnibus Amendment to Common Stock Warrants (the "Warrant Amendment"), which collectively amend that certain Note and Warrant Purchase Agreement dated as of October 9, 2015 (the "Original Agreement") and the warrants previously issued thereunder (the "Warrants") to, among other things; (i) for the period from the Closing Date until November 8, 2017 (the "Discount Period"), provide parties to the Original Agreement the option to purchase additional notes (in an amount of up to 50% of their respective original investment as provided in the Original Agreement) that will immediately convert to shares of common stock of the Company ("Common Stock") at a price of $1.68 per share along with warrants exercisable for shares of Common Stock at a price of $1.75 per share if exercised during the Discount Period or $2.50 per share if exercised during the term of the warrant following the Discount Period; (ii) provide for certain registration rights for shares of Common Stock issued pursuant to the Original Purchase Agreement, as amended, at any time after 30 days subsequent to the listing of the Common Stock on a national securities exchange; and (iii) amend the Warrants such that they are exercisable for shares of Common Stock at a price of $1.75 per share if exercised during the Discount Period or $0.10 per share if exercised during the term of the warrant following the Discount Period.

The Company recognized a charge of $13,262 to current period interest for change in fair value due to the warrant modifications using the Black-Scholes pricing model and the following assumptions: contractual terms of 5 years, a risk-free interest rate of 1.60% to 1.99%, a dividend yield of 0%, and volatility of 165.18% to 166.12%.

In November 2017, the Company issued convertible promissory notes in aggregate of $812,500 and 325,000 warrants to acquire the Company's common stock at $1.75 per share for five years under the above described terms. The notes were immediately converted into 483,631 shares of the Company's common stock at a conversion rate of $1.68 per share. Of the issued 325,000 warrants, 30,000 warrants were exercised for net proceeds of $52,500.

In accordance with ASC 470-20, the Company recognized the value attributable to the warrants and the conversion feature in the aggregate amount of $812,500 to additional paid in capital and a discount against the November 2017 notes. The Company valued the warrants in accordance with ASC 470-20 using the Black-Scholes pricing model and the following assumptions: contractual terms of 5 years, a risk-free interest rate of 1.83% to 2.01%, a dividend yield of 0%, and volatility of 165.45% to 166.12%. Due to the immediate conversion feature, the debt discount attributed to the value of the warrants and conversion feature in aggregate of $812,500 was charged to current period as interest expense.

2018:

In connection with the October 9, 2015 Note and Warrant Purchase Agreement, in September 2018 and October 2018, the Company issued convertible promissory notes in aggregate principal amount of $224,975 (the "Notes") and warrants (the "Warrants") to purchase 89,990 shares of common stock of the Company. $50,000 of the principal was in connection with an entity that a member of the Company's board of directors is deemed a beneficial owner (see Note 10). Subject to the agreement, any investor in the October 9, 2015 Purchase Agreement within the three-year period immediately following the initial closing date, may purchase an additional note in the principal amount equal to 50% of the principal amount of the initial note purchased by such investor at previous closings and an additional warrant equal to the principal amount of such additional note divided by the exercise price of the additional warrant.

The Notes bore interest at 10% and matured on the earlier of October 9, 2018 or after the occurrence of an event of default (as defined in the Note). In the event of any conversion, all interest was converted into equity and shall not be payable in cash.

Under the terms of the October 9, 2015 Note and Warrant Purchase Agreement, if the Company sells equity securities in a single transaction or series of related transactions for cash of at least $1,000,000 (excluding the conversion of the Notes and excluding the shares of common stock to be issued upon exercise of the warrants) on or before the maturity date, all of the unpaid principal on the Note plus accrued interest shall be automatically converted at the closing of the equity financing into a number of shares of the same class or series of equity securities as are issued and sold by the Company in such equity financing (or a class or series of equity securities identical in all respects to and ranking pari passu with the class or series of equity securities issued and sold in such equity financing) as is determined by dividing (i) the principal and accrued and unpaid interest amount of the Notes by (ii) 60% of the price per share at which such equity securities are issued and sold in such equity financing.

On October 2, 2018, the Company's board of directors approved to convert the debt, upon maturity, at $3.75 per share, which is 60% of the price per share at which equity was sold in August 2018 and will be treated as debt extinguishment at conversion. On October 29, 2018, the Company issued an aggregate of 60,182 shares of its common stock in settlement of the outstanding notes and accrued interest of $225,687 (principal plus accrued interest). In connection with the settlement, the Company incurred a loss on settlement of debt of $267,812, calculated as the difference between the fair value of the shares of common stock issued less the value of convertible debt settled.

The Warrants are exercisable at $2.50 per share and expire 5 years following the date of issuance. The Warrants are subject to anti-dilution protection, subject to certain customary exceptions.

In accordance with Accounting Standards Codification subtopic 470-20, the Company estimated relative fair value of the issued warrants, determined to be $175,617 as a credit to additional paid in capital. The Company amortized $175,617 of the debt discount to current period operations as interest expense for the year ended December 31, 2018.

NOTE 9 — RELATED PARTY TRANSACTIONS

Issuance of convertible notes payable

In 2017, the Company issued an aggregate of $762,500 in convertible notes payable and warrants to acquire 305,000 shares of the Company's common stock with a term of five years, an exercise price of $1.75 per share to David Moradi. Upon issuance, the convertible notes immediately and automatically convert into the Company's common stock at a conversion rate of $1.68 per share.

In 2017, the Company issued an aggregate of 453,869 shares of the Company's common stock in settlement of outstanding convertible notes, issued in 2017, for $762,500 to David Moradi.

On September 26, 2018, the Company issued a $50,000 convertible note payable and warrants to acquire 20,000 shares of the Company's common stock with a term of five years, an exercise price of $2.50 per share to an entity that Alexandre Zyngier, a member of the Company's board of directors is deemed a beneficial owner. On October 29, 2018, the Company issued 13,384 shares of the Company's common stock in settlement of this outstanding convertible note, discussed further in Note 8, issued in 2018, for $50,000 and accrued interest.

Sales of common stock

In 2017, the Company sold to Anthion Partners II, LLC, an entity under the control of David Moradi, 214,286 shares of the Company's common stock for net proceeds of $750,000.

In 2017, the Company issued 30,000 shares of the Company's common stock in exchange for the exercise of warrants for net proceeds of $52,500 to David Moradi.

In 2017, the Company issued 729,028 shares of the Company's common stock in exchange for the exercise on a cashless basis of 734,133 warrants to David Moradi.

In summary, as of December 31, 2018 and 2017, the total balances of related party payable were $14,467 and $23,535, respectively.

NOTE 10 — COMMITMENTS AND CONTINGENCIES

Operating leases

The Company's principal executive offices are located at 5210 E. Williams Circle, Suite 750, Tucson, Arizona 85711, consisting of approximately 5,151 square feet as of December 31, 2018. The Company's principal executive office was leased for an aggregate amount of $4,724 per month through September 1, 2016, $5,474 through September 30, 2017 and an aggregate amount of $6,224 per month as of December 31, 2017. On December 21, 2017, effective February 1, 2018, the Company amended its existing lease to expand its Arizona office to approximately 4,248 square feet that expires September 30, 2021. As such, beginning February 1, 2018, the basic rent increased to $9,598 on February 1, 2018. On October 2, 2018, effective December 1, 2018, the Company amended further its existing lease to expand its Arizona office to approximately 5,151 square feet. In accordance with the amended lease, rent increases to $11,810 on January 1, 2019, escalating to $12,977 at the end of the lease, which was extended to October 31, 2022.

The Company also has offices in Atlanta, previously located at 1855 Piedmont Road, Suite 200, Marietta, Georgia leased for an aggregate of $2,763 per month. Beginning September 1, 2016, we re-located offices located at 3901 Roswell Road, Suite 134, leased for an aggregate of $3,937 per month as of December 31, 2017 and expiring September 30, 2019. On December 29, 2017, effective February 1, 2018, amended its existing lease to expand its Georgia office to approximately 3,831 square feet. As such, beginning February 1, 2018, the basic rent increases by $1,500 on February 1, 2018 through remainder of lease term. Subsequent to year end, in February 2019, the Company entered into a lease for new offices in Marietta, Georgia located at 450 Franklin Gateway, Marietta, Georgia consisting of approximately 9,662 square feet. The new lease will commence, depending on substantial completion of the landlord's development but no later than June 1, 2019.

In 2018 and 2017, we leased office space in New York on a month to month basis for $300 per month.

Beginning November 1, 2015, we subleased an office from a company controlled by our Executive Chairman in Scottsdale, AZ for $3,578 per month as of December 31, 2018.

Rent expense charged to operations, which differs from rent paid due to rent credits and to increasing amounts of base rent, is calculated by allocating total rental payments on a straight-line basis over the term of the lease. During the years ended December 31, 2018 and 2017, rent expense was $220,407 and $144,030, respectively and as of December 31, 2018 and 2017, net deferred rent payable was $11,057 and $14,450, respectively.

The following is a schedule of future minimum lease payments for all non-cancelable operating leases for each of the next four years ending December 31 and thereafter:

Year ended December 31,	
2019	195,454
2020	147,079
2021	150,386
2022	142,242
Total	$ 635,161

Litigation

On January 23, 2017, the court granted preliminary approval of the settlement pursuant to the terms set forth in the Stipulation of Settlement, provisionally certified a settlement class of shareholders, and directed plaintiffs' counsel to provide notice to that class. The Court held a Settlement Hearing May 8, 2017 to consider any objections to the Settlement that might be raised by settlement class members, to consider plaintiffs' counsel's application for an award of fees and costs, and to determine whether the Order and Final Judgment as provided under the Stipulation of Settlement should be entered, dismissing the case with prejudice. On May 8, 2017, this Court granted final approval to the settlement of the securities class action brought by Lead Plaintiffs, individually and on behalf of all others similarly situated. On February 9, 2018, the Court authorized distribution of the Net Settlement Fund and approved the proposed modified plan of allocation.

On May 16, 2016, a shareholder derivative complaint entitled LiPoChing, Derivatively and on Behalf of AudioEye, Inc., v. Bradley, et al., was filed in the United States District Court for the District of Arizona. As a derivative complaint, the plaintiff-shareholder purported to act on behalf of the Company against the Named Individuals. The Company was named as a nominal defendant. The complaint asserted causes of action including breach of fiduciary duty and others, arising from the Company's restatement of its financial results for the first three quarters of 2014. The complaint sought, among other relief, compensatory damages, restitution and attorneys' fees. In October 2016, the Company and Named Defendants filed a motion to dismiss. In response, the Plaintiff voluntarily dismissed the complaint without prejudice. Plaintiff's counsel subsequently submitted a demand to the Company's Board of Directors, to investigate the circumstances surrounding restatement of its financial results for the first three quarters of 2014. On June 22, 2018, the matter was resolved to the parties' satisfaction. The resolution of the matter did not have a material adverse effect on our financial position or results of operations.

On July 26, 2016, a shareholder derivative complaint entitled Denese M. Hebert, derivatively on Behalf of Nominal Defendant AudioEye, Inc., v. Bradley, et al., was filed in the State of Arizona Superior Court for Pima County. The complaint generally asserted causes of action related to the Company's restatement of its financial statements for the first three fiscal quarters of 2014. As a derivative complaint, the plaintiff-shareholder purported to act on behalf of the Company against the Named Individuals. The Company was named as a nominal defendant. The defendants filed a motion to dismiss, which the Court granted on May 8, 2017, while also denying Plaintiff's request for leave to amend the complaint. As in the above matter, after this matter was dismissed Plaintiff's counsel subsequently submitted a demand to the Company's Board of Directors, to investigate the circumstances surrounding restatement of its financial results for the first three quarters of 2014. On June 22, 2018, the matter was resolved to the parties' satisfaction. The resolution of the matter did not have a material adverse effect on our financial position or results of operations.

We may become involved in various other routine disputes and allegations incidental to our business operations. While it is not possible to determine the ultimate disposition of these matters, our management believes that the resolution of any such matters, should they arise, is not likely to have a material adverse effect on our financial position or results of operations.

NOTE 11 — STOCKHOLDERS' EQUITY AND STOCK-BASED COMPENSATION

On August 1, 2018, the Company amended its Articles of Incorporation to implement a reverse stock split in the ratio of 1 share for every 25 shares of common stock and to reduce the number of authorized common stock from 250,000,000 to 50,000,000. No fractional shares were issued from such aggregation of common stock, upon the reverse split; any fractional share was rounded up and converted to the nearest whole share of common stock. As a result, 186,994,384 shares of the Company's common stock were exchanged for 7,479,775 shares of the Company's common stock resulting in the transfer of $1,795 from common stock to additional paid in capital. These amendments were approved and filed of record by the Delaware Secretary of State and effective on August 1, 2018. FINRA declared the Company's 1-for-25 reverse stock split market effective as of August 8, 2018. These financial statements have been retroactively restated to reflect the reverse stock split.

Preferred Stock

As of December 31, 2018 and 2017, the Company had 105,000 and 110,000 shares of Series A Convertible Preferred Stock, respectively, issued at $10 per share, paying a 5% cumulative annual dividend and convertible for common stock at a price of $4.385 per share, as adjusted for the Company's reverse stock split. The Preferred Stock is perpetual. For the year ended December 31, 2018, preferred shareholders earned, but were not paid $53,740 in annual dividends, or equivalent to 12,256 common shares based on a conversion price of $4.385 per share. As of December 31, 2018 and 2017, cumulative and unpaid dividends were $192,740 and $146,918, or equivalent to 43,955 and 33,505 common shares based on a conversion price of $4.385 per share, respectively.

On any matter presented to the stockholders of the Company, holders of Preferred Stock are entitled to cast the number of votes equal to the number of shares of Common Stock into which the shares of Preferred Stock are convertible as of the record date to vote on such matter. As long as any shares of Preferred Stock are outstanding, the Company has certain restrictions on share repurchases or amendments to the Certificate of Incorporation in a manner that adversely affects any rights of the Preferred Stock holders.

In addition, the Preferred stock holders have a liquidation preference, which Preferred Stock would be valued at $10 per share plus accrued cumulative annual dividend. At December 31, 2018, the liquidation preference was valued at $1,242,740. In the event of any liquidity event, holders of each share of Preferred Stock shall be entitled to be paid out of the assets of the Company legally available before any sums shall be paid to holders of Common Stock.

Common Stock

As of December 31, 2018 and 2017, the Company had 7,579,995 and 6,467,066 shares of common stock issued and outstanding, respectively.

During the year ended December 31, 2017, the Company issued 6,667 shares of its common stock in payment for consulting services at a fair value of $25,001.

During the year ended December 31, 2017, the Company issued 793,317 shares of its common stock upon the cashless exercise of outstanding warrants to purchase 854,133 shares of common stock. During the year ended December 31, 2017, the Company issued an aggregate of 120,000 shares of its common stock of the Company for the exercise of warrants, for proceeds of $210,000.

During the year ended December 31, 2017, the Company sold an aggregate of 442,857 shares of its common stock of the Company for net proceeds of $1,550,000 or $3.50 per share.

In October 2017, the Company issued 128,161 shares of its common stock upon conversion of 50,000 shares of Series A Convertible Preferred Stock and accrued dividends. In November 2017, the Company issued an aggregate of 61,212 shares of its common stock of the Company for conversion of notes payable and accrued interest of $102,836. In December 2017, the Company issued an aggregate of 453,869 shares of its common stock of the Company for conversion of notes payable of $762,500.

During the year ended December 31, 2018, the Company issued 5,842 shares of its common stock upon the cashless exercise of outstanding warrants to purchase 127,525 shares of common stock. During the year ended December 31, 2018, the Company issued 3,701 shares of its common stock upon the cashless exercise of outstanding options to purchase 12,173 shares of common stock.

In June 2018, the Company issued 13,204 shares of its common stock upon conversion of 5000 shares of Series A Convertible Preferred Stock and accrued dividends. In August 2018, the Company issued 1,000,000 shares of its common stock in exchange for net cash, after expenses, of $5,609,215.

In October 2018, the Company issued 60,182 shares of its common stock for conversion of notes payable and accrued interest of $225,687. In December 2018, the Company issued 20,000 shares of its common stock for the exercise of options, for proceeds of $20,500 and 10,000 shares of its common stock for exercise of warrants, for proceeds of $10,250.

Options

As of December 31, 2018 and 2017, the Company has outstanding options to purchase 997,989 and 1,003,836 shares of common stock, respectively.

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Term	Exercisable	Intrinsic Value of Options
Outstanding at December 31, 2016	1,029,262	$ 5.00	3.34	603,655	$ 1,161,244
Granted	58,000	4.00	5.00		-
Forfeited/Expired	(83,426)	8.50			
Outstanding at December 31, 2017	1,003,836	$ 4.69	2.64	891,087	$ 1,356,188
Granted	73,440	6.32	5.00		-
Exercised	(32,173)	2.15			
Forfeited/Expired	(47,114)	9.31			-
Outstanding at December 31, 2018	997,989	$ 4.67	2.14	925,545	$ 4,705,220

On January 17, 2017, the Company granted 4,000 options, which vest 50% after one year and 2.08% every month thereafter, have an exercise price of $3.975, and expire on January 17, 2022. The value on the grant date of the options was $11,119.

On March 10, 2017, the Company granted 4,000 options, which vest 50% after one year and 2.08% every month thereafter, have an exercise price of $3.625, and expire on March 10, 2022. The value on the grant date of the options was $12,541.

On July 10, 2017, the Company granted 50,000 employee options (including 40,000 of which to a board director) with an exercise price of $4.15 per share and expiration date five years from the date of grant, of which 40,000 options vested immediately and 10,000 options vest 50% after approximately nine months, with an additional 4.17% vesting every month thereafter.

Option grants during the year ended December 31, 2017 were valued using the Black-Scholes pricing model. Significant assumptions used in the valuation include expected term of 2.50 to 3.50 years, expected volatility of 169.46% to 175.56%, risk free interest rate of 1.42% to 1.66%, and expected dividend yield of 0%.

Effective December 31, 2017, 220,000 expiring performance-based options granted in 2016 were modified to 100% vested immediately. Previously recognized performance-based stock-based compensation in 2016 and 2017 of $58,830 was reversed at December 31, 2017 and the estimated fair value of the modified options of $737,825 was charged to operations. Significant assumptions used in the valuation include expected term of 1.52 years, expected volatility of 163.87%, risk free interest rate of 1.76%, and expected dividend yield of 0%.

On March 9, 2018, the Company granted an aggregate of 60,390 options to employees as compensation for services rendered. The options are exercisable at $6.45 per share for five years with (i) 37,890 options vesting 50% over the first year on the first day of each month beginning January 1, 2018 through December 1, 2018, 25% vesting over the year on the first day of each month from January 1, 2019 through December 1, 2019 and 25% vesting over the year on the first day of each month beginning January 1, 2020 through December 1, 2020; (ii) 12,500 options vesting 50% on January 1, 2018, 50% vesting over the year on each month beginning on January 1, 2019 for 24 months; and (iii) 10,000 options fully vesting on January 1, 2018.

The exercise price was determined using the 10-day average closing price beginning with the closing price on January 9, 2018. The value on the grant date of the options was $298,914.

On April 12, 2018, the Company granted 6,000 options to purchase the Company's common stock for services rendered at an exercise price of $6.20 per share for five years with 2,000 options vesting immediately and 1,000 options vesting every 90 days thereafter. The exercise price was determined using the 10-day average closing price beginning with the closing price on March 12, 2018. The value on the grant date of the options was $29,694.

On May 31, 2018, the Company granted an aggregate of 7,050 options to employees as compensation for services rendered. The options are exercisable at $5.30 per share for five years with 50% of options vesting upon one-year employee anniversary and 50% vesting at a rate of 1/24 per month thereafter. The exercise price was determined using the 10-day average closing price beginning with the closing price on May 16, 2018. The value on the grant date of the options was $33,130.

Option grants during the year ended December 31, 2018 were valued using the Black-Scholes pricing model. Significant assumptions used in the valuation include expected term of 2.50 to 3.50 years, expected volatility of 160.87% to 163.85%, risk free interest rate of 2.45% to 2.65%, and expected dividend yield of 0%.

For the year ended December 31, 2018 and 2017, total stock compensation expense related to the options totaled $342,384 and $1,236,863, respectively.

The outstanding unamortized stock compensation expense related to options was $111,027 (which will be recognized through December 2020) as of December 31, 2018.

Warrants

Below is a table summarizing the Company's outstanding warrants activity for the two years ended December 31, 2018. The Company had outstanding warrants to purchase 1,781,715 and 1,919,906 shares of the Company's common stock as of December 31, 2018 and 2017, respectively:

	Number of Warrants	Weighted Average Exercise Price	Weighted Average Remaining Term	Intrinsic Value of Warrants
Outstanding at December 31, 2016	2,537,335	$ 3.75	3.55	$ 3,662,610
Granted	366,600	2.50	4.89	-
Exercised	(974,133)	0.75		
Forfeited	(9,896)	12.25		-
Outstanding at December 31, 2017	1,919,906	$ 4.84	2.61	$ 1,656,083
Granted	303,234	5.14	2.64	—
Exercised	(137,525)	5.87		
Forfeited/Expired	(303,900)	8.43		—
Outstanding at December 31, 2018	1,781,715	$ 4.20	2.23	$ 8,930,058

In January 2017, the Company issued 1,600 warrants with an exercise price of $6.25 in connection with the sale of the Company's common stock. The five-year warrants also contain a provision that the warrant exercise price will automatically be adjusted for any common stock equity issuances at less than $6.25 per share. In January 2017, in exchange for services rendered, the Company issued 10,000 warrants to purchase shares of the Company's common stock with an exercise price of $3.00 per share that vested immediately. The fair value on the grant date of the warrants was $29,433.

In April 2017, the Company issued 20,000 warrants with an exercise price of $2.50 in connection with issuance of a convertible note. The five-year warrants also contain a provision that the warrant exercise price will automatically be adjusted for any common stock equity issuances at less than $2.50 per share. (Note 8)

In October 2017, in exchange for services rendered, the Company issued 10,000 warrants to purchase shares of the Company's common stock with an exercise price of $4.475 per share that vested immediately. The fair value on the grant date of the warrants was $33,785.

In October and November 2017, the Company issued an aggregate of 325,000 warrants with an exercise price of $2.50 in connection with issuance of convertible notes. (Note 8)

The warrant grants for services during the year ended December 31, 2017 were valued using the Black-Scholes pricing model. Significant assumptions used in the valuation include expected term of 3.0 years, expected volatility of 175.64%, risk free interest rate of 1.48%, and expected dividend yield of 0%.

On April 17, 2018, the Company granted 127,525 warrants for services rendered. The warrants are exercisable at $6.25 per share through May 16, 2018. The fair value of the warrants of $109,207 was charged to current operations.

On August 23, 2018, the Company granted 85,719 warrants in connection with the 2017 sale of the Company's common stock. The warrants are exercisable at $6.25 through September 29, 2022.

In September 2018 and October 2018, the Company issued an aggregate of 89,990 warrants in connection with the issuance of convertible notes payable. The warrants are exercisable at $2.50 through five years from the date of issuance. The aggregate fair value of the warrants (up to the net note proceeds) was charged as a debt discount against the convertible notes.

Warrants issued during the year ended December 31, 2018 were valued using the Black-Scholes pricing model. Significant assumptions used in the valuation include expected term of 0.08 to 5.0 years, expected volatility of 159.77% to 162.35%, risk free interest rate of 1.68% to 2.96%, and expected dividend yield of 0%.

For the year ended December 31, 2018 and 2017, the Company has incurred warrant-based expense of $110,600 and $109,509, respectively. There was no outstanding unamortized stock compensation expense related to warrants as of December 31, 2018.

Restricted Stock Units ("RSU")

The following table summarizes the restricted stock activity for the two years ended December 31, 2018:

Restricted shares issued as of January 1, 2017	50,105
Granted	106,235
Total Restricted Shares Issued at December 31, 2017	156,340
Granted	92,174
Forfeited/Cancelled	(26,000)
Total Restricted Shares Issued at December 31, 2018	222,514
Vested at December 31, 2018	188,008
Unvested restricted shares as of December 31, 2018	34,506

On August 10, 2017, the Company amended 16,092 RSUs granted on February 23, 2017 for accrued and unpaid compensation for the period from December 1, 2016 through March 31, 2017 in the amount of $66,379. The RSUs as amended, vest upon the earlier of (i) on July 1, 2017 provided that service is not terminated and (ii) and the date of a meeting of the stockholders of the Company at which the director, being willing and available to serve as a director, is nominated for election but is not reelected by the stockholders. The settlement date for such RSUs, as amended, is the earlier of (i) July 1, 2024 or (ii) the date on which the Company undergoes a change of control.

On August 10, 2017, the Company amended 10,543 RSUs granted June 22, 2017 for accrued and unpaid compensation for the period from April 1, 2017 through June 30, 2017 in the amount of $43,486. The RSUs, as amended, vest upon the earlier of (i) on July 1, 2017 provided that service is not terminated and (ii) and the date of a meeting of the stockholders of the Company at which the director, being willing and available to serve as a director, is nominated for election but is not reelected by the stockholders. The settlement date for such RSUs, as amended, is the earlier of (i) July 1, 2024 or (ii) date on which the Company undergoes a change of control during the seven-year term of the award.

In connection with the issuance of the above described RSUs as payment for accrued compensation, the Company reclassified to equity the settled aggregate salary accrual of $102,083 and recorded addition compensation costs of $7,782 during the year ended December 31, 2017. Out of the total settled accrued salary of $102,083 during year ended December 31, 2017, $14,583 was for the compensation accrued as of December 31, 2016 and $87,500 was for compensation expense earned during the year ended December 31, 2017. Due to the August 10, 2017 modification to the 24,104 RSU's granted in 2016, the Company recorded an incremental expense of $26,515 in current period.

On June 22, 2017, the Company following consideration of the report prepared by Farient Advisors LLC granted 26,600 RSUs for services provided by a board member. The RSUs vest upon the earlier of (i) on July 1, 2018 provided that service is not terminated and (ii) and the date of a meeting of the stockholders of the Company at which the director, being willing and available to serve as a director, is nominated for election but is not reelected by the stockholders. The settlement date for such RSUs is (i) July 1, 2024 or (ii) the date on which the Company undergoes a change of control during the seven-year term of the award.

On August 10, 2017, the Company following consideration of the report prepared by Farient Advisors LLC granted 16,600 RSUs to each of Alexandre Zyngier, Ernest Purcell and Anthony Coelho for their continued service on the Board of Directors and 1,600 RSUs to each Alexandre Zyngier and Ernest Purcell for their continued service as the chairs of committees of the Board of Directors (for an aggregate grant of 53,000 RSUs). Such RSUs vest upon the first to occur of the following: (i) April 30, 2018 provided that the director's service with the Company has not terminated prior to such date and (ii) the date of a meeting of the stockholders of the Company at which the director, being willing and available to serve as a director, is nominated for election but is not reelected by the stockholders. The settlement date for such RSUs is the earlier of (i) April 30, 2024 or (ii) the date on which the Company undergoes a change of control.

On August 10, 2017, the Company amended the terms of an aggregate of 26,000 RSUs previously granted in 2016. The vesting terms were amended from conditional based on a change of control to vesting as of July 1, 2017. The settlement date for such RSUs, as amended, in the earlier of (i) July 1, 2024 or (ii) the date on which the Company undergoes a change of control. The Company recorded the fair value of the previously issued RSUs of $107,250 as a charge to current period operations. These RSUs were subsequently cancelled subject to the terms of the grant.

On March 27, 2018, the Company granted 38,334 RSUs for services provided. 20,000 of such RSUs began vesting May 1, 2018 and will vest each calendar month at a rate of 1,667 RSUs per month, whereby the RSUs would vest provided that services are not terminated by the Company or the grantee. 18,333 RSU's vested immediately. The settlement date for such RSUs is (i) April 1, 2025 or (ii) the date on which the Company undergoes a change of control during the seven-year term of the award. As of December 31, 2018, no RSUs have been settled. The fair value of the RSU's at grant date was $247,250.

On December 31, 2018, the Company following consideration of the report prepared by Farient Advisors LLC granted 11,280 RSUs to each of Alexandre Zyngier, Ernest Purcell and Anthony Coelho for their continued service on the Board of Directors and 20,000 RSUs to Dr. Carr Bettis for his continued service as the chair of the Board of Directors (for an aggregate grant of 53,840 RSUs). Such RSUs vest upon the first to occur of the following: (i) April 30, 2019 provided that the director's service with the Company has not terminated prior to such date and (ii) the date of a meeting of the stockholders of the Company at which the director, being willing and available to serve as a director, is nominated for election but is not reelected by the stockholders. The settlement date for such RSUs is the earlier of (i) April 30, 2025 or (ii) the date on which the Company undergoes a change of control. The fair value of the RSU's at grant date was $460,332.

For the year ended December 31, 2018 and 2017, the Company has incurred RSU-based expense of $372,537 and $418,832, respectively. The outstanding unamortized stock compensation expense related to RSUs was $488,223 (which will be recognized through April 2019) as of December 31, 2018.

NOTE 12 — INCOME TAXES

The Company accounts for income taxes under ASC 740, “Income Taxes”. Temporary differences are differences between the tax basis of assets and liabilities and their reported amounts in the financial statements that will result in taxable or deductible amounts in future years. Under this method, deferred tax assets and liabilities are determined based on differences between financial reporting and tax bases of assets and liabilities and are measured using the enacted tax rates and laws that will be in effect when the differences are expected to reverse. A valuation allowance is recorded when the ultimate realization of a deferred tax is uncertain. The tax effects of temporary differences that give rise to significant portions of the deferred tax assets and deferred tax liabilities are presented below:

Deferred tax assets:	**2018**	**2017**
Net operating loss carry forwards	$ 5,329,518	$ 5,014,461
Less valuation allowance	(5,329,518)	(5,014,461)
Net deferred tax asset	$ -	$ -

At this time, the Company is unable to determine if it will be able to benefit from its deferred tax asset. There are limitations on the utilization of net operating loss carry forwards, including a requirement that losses be offset against future taxable income, if any. In addition, there are limitations imposed by certain transactions, which are deemed to be ownership changes. Accordingly, a valuation allowance has been established for the entire deferred tax asset. The approximate net operating loss carry forward was $25,378,656 and $23,878,387 as of December 31, 2018 and 2017, respectively and will start to expire in 2031. The Company’s tax return for the years 2015, 2016 and 2017 are open to IRS inspection.

On December 22, 2017, the Tax Act was signed into law making significant changes to the Internal Revenue Code. Changes include, but are not limited to, a corporate tax rate decrease from 35% to 21%, effective for tax years beginning after December 31, 2017, and the transition of U.S international taxation from a worldwide tax system to a territorial system. We use the asset and liability method of accounting for income taxes. Under this method, deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax basis. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to reverse. As a result of the reduction in the U.S. corporate income tax rate from 35% to 21% under the Tax Act, we revalued our ending net deferred tax assets at December 31, 2017, which were fully offset by a valuation allowance.

NOTE 13 — SUBSEQUENT EVENTS

In January 2019, the Company issued 20,000 shares of its common stock of the Company for the exercise of options, for proceeds of $19,000. In January and February 2019, the Company issued 10,000 and 1,395 shares of its common stock, respectively, upon the exercise of outstanding warrants to purchase an aggregate of 11,395 shares of common stock, for aggregate proceeds of $23,450. In January and February 2019, the Company issued an aggregate of 11,837 shares of its common stock upon the cashless exercise of outstanding options and outstanding warrants to purchase 17,733 shares of common stock.

On February 7, 2019, the Company granted an aggregate of 28,700 incentive stock options to employees newly hired since June 4, 2018. The options to purchase shares of common stock are exercisable at $10.55 for five years with options vesting 50% at the vesting commencement date, subject to the employee’s continuous service on the first anniversary of their date of hire (vesting commencement dates range from June 4, 2019 through January 25, 2020), and 50% vesting in eight equal quarterly installments to vest on the first day of each calendar quarter following the vesting commencement date and installments continuing for the first day of each of the seven calendar quarters thereafter. The exercise price was determined using the closing price of the Company’s common stock on February 7, 2019.

Exhibit 10.10

AMENDED AND RESTATED EXECUTIVE EMPLOYMENT AGREEMENT

This AMENDED AND RESTATED EXECUTIVE EMPLOYMENT AGREEMENT (this "Agreement") is made and entered into as of the 25th day of February, 2019, to be effective as of January 1, 2019 (the "Effective Date"), by and between AudioEye, Inc., a Delaware corporation with an address at 5210 E Williams Circle, Suite 750, Tucson, Arizona 85711 (the "Company"), and Todd Bankofier, a natural person ("Executive").

WITNESSETH:

WHEREAS, Executive is employed by the Company as its Chief Executive Officer (the "Position") and the Company desires to continue to employ Executive in such capacity, while updating Executive's January 1, 2018 Executive Employment Agreement;

NOW, THEREFORE, in consideration of the foregoing recitals and the respective covenants and agreements of the parties contained in this document, the Company and Executive hereby agree as follows:

1. Employment and Duties. The Company agrees to employ and Executive agrees to serve in the Position. The duties and responsibilities of Executive shall include the duties and responsibilities set forth in Executive's Job Description, attached as Attachment A, and those the Board of Directors of the Company (the "Board") may from time to time reasonably assign to Executive.

Executive shall devote such amount of his time, attention, and energies to the business of the Company as the Company and Executive shall reasonably and mutually agree is necessary for Executive to fulfill the duties and responsibilities of the Position. Provided that none of the additional activities materially interfere with the performance of the duties and responsibilities of Executive, nothing in this Section 1 shall prohibit Executive from (a) serving as a director or member of a committee of, making investments in, or consulting or working with entities that do not, in the good faith determination of the Board, compete directly with the Company or otherwise create, in the good faith determination of the Board, a conflict of interest with the business of the Company; (b) delivering lectures, fulfilling speaking engagements, and any writing or publication relating to Executive's area of expertise; (c) serving as a director or trustee of any governmental, charitable or educational organization; or (d) engaging in additional activities in connection with personal investments and community affairs; *provided* that such activities are not inconsistent with Executive's duties under this Agreement and do not violate the terms of Section 13. For the avoidance of doubt, Executive agrees that this is a full-time position with the Company, and any such additional activities will not interfere with the fulfillment of the duties and responsibilities of the Position.

2. Term. The term of this Agreement shall be the same as was established in Executive's January 1, 2018 Executive Employment Agreement, which commenced on January 1, 2018, for a period of two (2) years from January 1, 2018, through December 31, 2019. This Agreement shall be automatically renewed for successive one (1) year periods, beginning on January 1, 2020, thereafter unless either party provides the other party with written notice of his, her or its intention not to renew this Agreement at least four (4) months prior to the expiration of the initial term or any renewal term of this Agreement, as applicable. In the event the Company fails to provide Executive with written notice of its intention not to renew this Agreement at least four (4) months prior to the expiration of the initial term or any renewal term of this Agreement, then the term of this Agreement automatically shall be extended until the date which is six (6) months after the date such notice is given, during which time Executive may seek alternative employment while still being employed by the Company. "Employment Period" shall mean the initial two (2) year term plus renewal periods, if any.

3. Place of Employment. Executive's job site shall be at an office sublet to Audio Eye in Scottsdale, Arizona and at 5210 E Williams Circle, Suite 750, in Tucson, Arizona (the "Job Site"). Executive shall primarily work from the Scottsdale office location, and shall work occasionally from the Tucson office location. The parties acknowledge, however, that Executive may be required to travel in connection with the performance of his duties hereunder.

4. Base Salary. For all services to be rendered by Executive pursuant to this Agreement, the Company agrees to pay Executive during the Employment Period a base salary (the "Base Salary") at a minimum annual rate of $250,000 during 2018 and of $300,000 during the remainder of the Employment Period. The Base Salary shall be paid in periodic installments in accordance with the Company's regular payroll practices. The parties shall meet at least annually to discuss increases to the Base Salary.

5. Bonuses. During each year in the Employment Period, Executive shall be eligible to receive an annual bonus (each, a "Bonus") in an amount (the "Annual Bonus Amount") to be determined by the Compensation Committee of the Board (the "Compensation Committee") (or by the independent members of the Board, if there is no Compensation Committee) if the Company and Executive meets or exceeds criteria adopted by the Compensation Committee (or by the independent members of the Board, if there is no Compensation Committee) for earning the Bonuses. The Bonus normally will be paid in cash; *provided*, *however*, that the Company and Executive can mutually agree that any particular Bonus can be paid in equity of the Company or a combination of cash and equity of the Company. Payment of each Bonus, if any, will be made within fifteen (15) days after the Audit Committee of the Company's Board approves the Company's annual financial statements for the applicable fiscal year but in no event later than the last day of the fiscal year immediately following the applicable fiscal year. The Compensation Committee (or the independent members of the Board, if there is no Compensation Committee) may provide for additional bonus payments for Executive upon achievement of additional criteria established or determined from time to time by the Compensation Committee (or by the independent members of the Board, if there is no Compensation Committee).

6. Severance Compensation. If, at any time prior to the expiration of the Employment Period, the Company terminates Executive without Cause (as defined below) or Executive terminates his employment with Good Reason (as defined below), then the Company shall pay or provide all of the following to Executive:

(a) Executive shall be entitled to (1) reimbursement of any and all business expenses paid or incurred by Executive through the termination date, pursuant to Section 9 below, (2) receipt of any accrued but unused paid time off through the termination date in accordance with Company policy, as in effect as of the date of termination, (3) receipt of any earned but unpaid Base Salary accrued through Executive's last date of employment with the Company, and (4) receipt of an amount equal to a portion of the Executive's Base Salary, as set forth in Section 6(c) below (all of these payments are collectively the "Separation Payment"), *provided* that to be eligible to be paid the Base Salary portion of the Separation Payment described in Section 6(a)(4), Executive must execute an agreement releasing Company and its affiliates from any liability associated with this Agreement in form and terms satisfactory to the Company and that all time periods imposed by law permitting cancellation or revocation of such release by Executive shall have passed or expired; and

(b) Subject to Executive's timely election of continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA") with respect to the Company's group health insurance plans in which the Employee participated immediately prior to the termination date ("COBRA Continuation Coverage"), the Company will pay the cost of COBRA Continuation Coverage for Executive and his eligible dependents until the earliest of (i) Executive and his eligible dependents, as the case may be, ceasing to be eligible under COBRA, or (ii) twelve (12) months following the termination date (the benefits provided under this Section 6(b), the "Medical Continuation Benefits") or until such time as Executive shall obtain reasonably equivalent benefits for him and his eligible dependents from subsequent employment or spousal benefits.

(c) The Base Salary portion of the Separation Payment described in Section 6(a)(4) above shall be the remaining salary that would otherwise be paid to Executive for the remainder of the Employment Period, but in no event shall this amount be less than twelve (12) months of Executive's Base Salary (at the rate that was in effect at the time of termination). Such Base Salary portion shall be paid at such time and in such manner as such Base Salary would have been paid had Executive remained employed in accordance with the customary payroll practices of the Company, except that, to the extent Executive becomes entitled to a Separation Payment on account of a separation from service that occurs within 120 days after a Change of Control (to the extent such Change of Control meets the requirements for a change in control event under Section 409A), the Base Salary portion of such Separation Payment shall be payable in a lump sum within 60 days following such separation from service subject to all other terms and conditions herein. Notwithstanding anything herein to the contrary, in the event that the period in which a release agreement could be considered and become irrevocable spans two taxable years, any Separation Payment that becomes payable hereunder shall be paid or commence in the later of the two taxable years, subject to all other terms and conditions herein.

7. Equity Awards. Executive shall be eligible for such grants of awards at the discretion of the Compensation Committee (or the Board, if there is no Compensation Committee) may from time to time determine (the "Share Awards"). Awards shall be subject to the applicable Plan terms and conditions; *provided*, *however*, that Awards shall be subject to any additional terms and conditions as are provided herein or in any award certificate(s), which shall supersede any conflicting provisions governing Share Awards provided under the Plan. Subject to the approval by the Board or Compensation Committee, Executive would receive a grant of restricted stock units in an amount equal to approximately $75,000, which would be subject to vesting requirements as determined by the Board or Compensation Committee, as applicable.

8. Clawback Rights. All amounts paid to Executive by the Company during the Employment Period and any time thereafter (other than Executive's Base Salary, Bonuses, accrued but unused paid time off, reimbursement of expenses pursuant to Section 9 hereof, Medical Continuation Benefits, and the Separation Payment) and any and all stock based compensation (such as options and equity awards) granted during the Employment Period and any time thereafter (collectively, the "Clawback Benefits") shall be subject to "Clawback Rights" as follows: during the period that Executive is employed by the Company and upon the termination or expiration of Executive's employment and for a period of three (3) years thereafter, if any of the following events occur, Executive agrees to repay or surrender to the Company the Clawback Benefits if a restatement (a "Restatement") of any financial results from which any Clawback Benefits to Executive shall have been determined (such restatement resulting from material non-compliance of the Company with any financial reporting requirement under the federal securities laws and shall not include a restatement of financial results resulting from subsequent changes in accounting pronouncements or requirements which were not in effect on the date the financial statements were originally prepared), then Executive agrees to immediately repay or surrender upon demand by the Company any Clawback Benefits which were determined by reference to any Company financial results which were later restated, but only to the extent the Clawback Benefits amounts paid exceed the Clawback Benefits amounts that would have been paid, based on the restatement of the Company's financial information. All Clawback Benefits amounts resulting from such Restatements shall be retroactively adjusted by the Compensation Committee (or the Board, if there is no Compensation Committee) to take into account the restated results and if any excess portion of the Clawback Benefits resulting from such restated results is not so repaid or surrendered by Executive within ninety (90) days of the revised calculation being provided to Executive by the Company following a publicly announced restatement, the Company shall have the right to take any and all action to effectuate such adjustment.

The Clawback Rights shall terminate following a Change of Control, subject to applicable law, rules and regulations. The amount of Clawback Benefits to be repaid or surrendered to the Company shall be determined by the Compensation Committee (or the Board, if there is no Compensation Committee) in accordance with applicable law, rules and regulations. All determinations by the Compensation Committee (or the Board, if there is no Compensation Committee) with respect to the Clawback Rights shall be final and binding on the Company and Executive. The parties acknowledge it is their intention that the foregoing Clawback Rights as relates to Restatements conform in all respects to the provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Dodd Frank Act") and requires recovery of all "incentive-based" compensation, pursuant to the provisions of the Dodd Frank Act and any and all rules and regulations promulgated thereunder from time to time in effect. Accordingly, the terms and provisions of this Agreement shall be deemed automatically amended from time to time to assure compliance with the Dodd Frank Act and such rules and regulation as hereafter may be adopted and in effect.

9. Expenses. Executive shall be entitled to prompt reimbursement by the Company for all reasonable ordinary and necessary travel, entertainment, and other expenses incurred by Executive while employed (in accordance with the policies and procedures established by the Company for its senior executive officers) in the performance of his duties and responsibilities under this Agreement; *provided*, that Executive shall properly account for such expenses in accordance with Company policies and procedures.

10. Other Benefits; Vacation. During the Employment Period, Executive shall be eligible to participate in incentive, stock purchase, savings, retirement (401(k)), and welfare benefit plans, including, without limitation, health, medical, dental, vision, life (including accidental death and dismemberment) and disability insurance plans (collectively, "Benefit Plans"), in substantially the same manner and at substantially the same levels as the Company makes such opportunities available to the Company's managerial or salaried executive employees. During the term of this Agreement, Executive shall be entitled to accrue, on a pro rata basis, twenty (20) paid vacation days per year, which if not taken, will accrue and be carried forward into the next year. No carry forward of vacation past the second year will be granted without the approval of the Compensation Committee of the Board. Vacation shall be taken at such times as are mutually convenient to Executive and the Company and no more than twenty (20) consecutive days shall be taken at any one time without the advance approval of the Board.

11. Termination of Employment.

(a) Death. If Executive dies during the Employment Period, this Agreement and Executive's employment with the Company shall automatically terminate and the Company shall have no further obligations to Executive or his heirs, administrators or executors with respect to compensation and benefits accruing thereafter, except for the obligation to pay to Executive's spouse if living (and in the event she predeceases Executive, then to his heirs, administrators or executors): (i) any earned but unpaid Base Salary accrued through the date of death, (ii) reimbursement of any and all business expenses paid or incurred by Executive through the termination date, pursuant to Section 9 above, (iii) any accrued but unused paid time off through the termination date in accordance with Company policy, and (iv) an amount equal to three (3) months of Executive's Base Salary (at the rate that was in effect at the time of death) to be paid within 10 days of Executives' death. The Company shall deduct, from all payments made hereunder, all applicable taxes, including income tax, FICA and FUTA, and other deductions required by law. In addition, Executive's spouse and minor children shall be entitled to Medical Continuation Benefits.

(b) Disability. In the event that, during the term of this Agreement, Executive shall be prevented from performing, with or without reasonable accommodation, his essential duties and responsibilities as Chief Executive Officer by reason of Disability (as defined below), this Agreement and Executive's employment with the Company shall automatically terminate and the Company shall have no further obligations or liability to Executive or his heirs, administrators or executors with respect to compensation and benefits accruing thereafter, except for the obligation to pay Executive or his spouse if living (and in the event she predeceases Executive, then his heirs, administrators or executors): (i) any earned but unpaid Base Salary accrued through Executive's last date of employment with the Company, (ii) reimbursement of any and all business expenses paid or incurred by Executive through the period ending on the termination date, pursuant to Section 9 above, and (iii) any accrued but unused paid time off through the termination date in accordance with Company policy. The Company shall deduct, from all payments made hereunder, all applicable taxes, including income tax, FICA and FUTA, and other deductions required by law. In addition, Executive's spouse and minor children shall be entitled to Medical Continuation Benefits. For purposes of this Agreement, "Disability" shall mean a physical or mental disability that prevents the performance by Executive, with or without reasonable accommodation, of the essential duties of his job as Chief Executive Officer for a period of not less than an aggregate of three (3) months during any twelve (12) consecutive months. The Company shall provide reasonable accommodations to Executive in accordance with applicable federal, state and local law.

(c) Cause.

(1) At any time during the Employment Period, the Company may terminate this Agreement and Executive's employment hereunder for Cause. For purposes of this Agreement, "Cause" shall mean: (a) the willful and continued failure of Executive to perform substantially his duties and responsibilities for the Company (other than any such failure resulting from Executive's death or Disability) after a written demand by the Board for substantial performance is delivered to Executive by the Company, which specifically identifies the manner in which the Board believes that Executive has not substantially performed his duties and responsibilities, which willful and continued failure is not cured by Executive within thirty (30) days of his receipt of such written demand; (b) the conviction of, or plea of guilty or *nolo contendere* to, a felony, or (c) fraud, dishonesty or gross misconduct which is materially and demonstratively injurious to the Company. Termination under clauses (b) or (c) of this Section 11(c)(1) shall not be subject to cure.

(2) For purposes of this Section 11(c), no act, or failure to act, on the part of Executive shall be considered "willful" unless done, or omitted to be done, by him in bad faith and without reasonable belief that his action or omission was in, or not opposed to, the best interest of the Company. Prior to any termination for Cause, Executive will be given five (5) business days written notice specifying the alleged Cause event and will be entitled to appear (with counsel) before the full Board to present information regarding his views on the Cause event, and after such hearing, there is at least a majority vote of the full Board (other than Executive) to terminate him for Cause. After providing the notice in foregoing sentence, the Board may suspend Executive with full pay and benefits until a final determination pursuant to this Section 11(c) has been made.

(3) Upon termination of this Agreement for Cause, the Company shall have no further obligations or liability to Executive or his heirs, administrators or executors with respect to compensation and benefits thereafter, except for the obligation to pay Executive (i) any earned but unpaid Base Salary accrued through Executive's last date of employment with the Company, (ii) reimbursement of any and all business expenses paid or incurred by Executive through the period ending on the termination date, pursuant to Section 9 above, and (iii) any accrued but unused paid time off through the termination date in accordance with Company policy. The Company shall deduct, from all payments made hereunder, all applicable taxes, including income tax, FICA and FUTA, and other deductions required by law.

(d) Good Reason and Without Cause.

(1) At any time during the term of this Agreement, subject to the conditions set forth in Section 11(d)(2) below, Executive may terminate this Agreement and Executive's employment with the Company for "Good Reason." For purposes of this Agreement, "Good Reason" shall mean the occurrence of any of the following events: (A) the assignment, without Executive's written consent, to Executive of duties that are significantly different from, and that result in a substantial diminution of, the duties that he had on the Effective Date as set forth in Attachment A (including reporting to anyone other than the Executive Chairman or to the Board); (B) the assignment, without Executive's written consent, to Executive of a title that is different from and subordinate to the Position title; *provided, however*, for the absence of doubt following a Change of Control, should Executive cease to retain either the title or responsibilities he had on the Effective Date, or Executive is required to serve in a diminished capacity or lesser title in a division or unit of another entity (including the acquiring entity), such event shall constitute Good Reason regardless of the title of Executive in such acquiring company, division or unit; (C) the occurrence of a Change of Control; (D) material breach by the Company of this Agreement; or (E) the re-location of Executive to an office other than the Job Site.

(2) Except with respect to subparagraph "(C)" in Section 11(d)(1) above, Executive shall only be entitled to terminate this Agreement for Good Reason if: (i) he shall have delivered written notice to the Company within one hundred and eighty (180) days of the date upon which the facts giving rise to Good Reason occurred (the "Good Reason Date") of his intention to terminate this Agreement and his employment with the Company for Good Reason, which notice specifies in reasonable detail the circumstances claimed to provide the basis for such termination for Good Reason, (ii) the Company shall not have eliminated the circumstances constituting Good Reason within thirty (30) days of its receipt from Executive of such written notice; and (iii) Executive's employment with the Company ends within two hundred and forty (240) days after the Good Reason Date.

(3) In the event that Executive terminates this Agreement and his employment with the Company for Good Reason or the Company terminates this Agreement and Executive's employment with the Company without Cause, the Company shall pay or provide to Executive (or, following his or her death, to Executive's spouse if living; but in the event she predeceases Executive, then to his heirs, administrators or executors) the Separation Payment amount and Medical Continuation Benefits, pursuant to Section 6 above; *provided, however*, that in the event Executive elects to terminate this Agreement for Good Reason in accordance with subparagraph "(C)" in Section 11(d)(1), such election must be made and termination of employment occur within one hundred and twenty (120) days of the occurrence of the Change of Control and Executive shall be entitled to receive the Separation Payment in one lump sum cash payment within sixty (60) days after the termination date (to the extent the Change of Control meets the requirements under Section 409A). The Company shall deduct, from all payments made hereunder, all applicable taxes, including income tax, FICA and FUTA, and other deductions required by law.

(4) Executive shall not be required to mitigate the amount of any payment provided for in this Agreement by seeking other employment or otherwise, nor shall the amount of any payment provided for in this Agreement be reduced by any compensation earned by Executive as the result of employment by another employer or business or by profits earned by Executive from any other source at any time before and after the termination date. The Company's obligation to make any payment pursuant to, and otherwise to perform its obligations under, this Agreement shall not be affected by any offset, counterclaim or other right that the Company may have against Executive for any reason.

(e) Without "Good Reason" by Executive. At any time during the term of this Agreement, Executive shall be entitled to terminate this Agreement and Executive's employment with the Company without Good Reason by providing prior written notice of at least thirty (30) days to the Company. Upon termination by Executive of this Agreement or Executive's employment with the Company without Good Reason, the Company shall have no further obligations or liability to Executive or his heirs, administrators or executors with respect to compensation and benefits thereafter, except for the obligation to pay Executive (i) any earned but unpaid Base Salary accrued through Executive's last date of employment with the Company, (ii) reimbursement of any and all business expenses paid or incurred by Executive through the period ending on the termination date, pursuant to Section 9 above, and (iii) any accrued but unused paid time off through the termination date in accordance with Company policy. The Company shall deduct, from all payments made hereunder, all applicable taxes, including income tax, FICA and FUTA, and other deductions required by law.

(f) Change of Control. For purposes of this Agreement, "Change of Control" shall mean the occurrence of any one or more of the following: (i) the accumulation (if over time, in any consecutive twelve (12) month period), whether directly, indirectly, beneficially or of record, by any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Securities Exchange Act of 1934, as amended) of 50.1% or more of the shares of the outstanding common stock of the Company, whether by merger, consolidation, sale or other transfer of shares of Company common stock (other than a merger or consolidation where the stockholders of the Company prior to the merger or consolidation are the holders of a majority of the voting securities of the entity that survives such merger or consolidation), (ii) a sale of all or substantially all of the assets of the Company, or (iii) during any period of twelve (12) consecutive months, the individuals who, at the beginning of such period, constitute the Board, and any new director whose election by the Board or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds (2/3) of the directors then still in office who either were directors at the beginning of the 12-month period or whose election or nomination for election was previously so approved, cease for any reason to constitute at least a majority of the Board; *provided, however*, that the following acquisitions shall not constitute a Change of Control for the purposes of this Agreement: (A) any acquisitions of Company common stock or securities convertible, exercisable or exchangeable into Company common stock directly from the Company, or (B) any acquisition of Company common stock or securities convertible, exercisable or exchangeable into Company common stock by any employee benefit plan (or related trust) sponsored by or maintained by the Company.

(g) Any termination of Executive's employment by the Company or by Executive (other than termination by reason of Executive's death) shall be communicated by written Notice of Termination to the other party of this Agreement. For purposes of this Agreement, a "Notice of Termination" shall mean a written notice which shall indicate the specific termination provision in this Agreement relied upon and shall set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of Executive's employment under the provision so indicated, *provided, however*, failure to provide timely notification shall not affect the employment status of Executive.

12. Confidential Information.

(a) Disclosure of Confidential Information. Executive recognizes, acknowledges and agrees that he has had and will continue to have access to non-public, secret, and confidential information regarding the Company, its subsidiaries and their respective businesses ("Confidential Information"), including but not limited to, its products, methods, formulas, software code, patents, sources of supply, customer dealings, data, know-how, trade secrets and business plans, *provided* such information is not in or does not hereafter become part of the public domain, or become known to others through no fault of Executive. Executive acknowledges that such information is of great value to the Company, is the sole property of the Company, and has been and will be acquired by him in confidence. In consideration of the obligations undertaken by the Company herein, Executive will not, at any time, during or after his employment hereunder, reveal, divulge or make known to any person, any Confidential Information acquired by Executive during the course of his employment, which is treated as confidential by the Company, and not otherwise in the public domain or publicly accessible. Nothing in this Section 12 prohibits Executive from disclosing Confidential Information, in the course and scope of his employment, to employees and/or agents of the Company who have a need to know and/or receive such Confidential Information to perform their duties on behalf of the Company. The provisions of this Section 12 shall survive the termination of Executive's employment hereunder for a period of three (3) years. Information will not be deemed to be Confidential Information if: (i) the information was in Executive's possession or within Executive's knowledge before the Company disclosed it to Executive; (ii) the information was or became generally known to those who could take economic advantage of it; (iii) Executive obtained the information from a third party that was not known by Executive to be bound by a confidentiality agreement or other obligation of confidentiality to the Company or any other party with respect to such information; or (iv) Executive is required to disclose the information pursuant to legal process (e.g. a subpoena), *provided* that Executive notifies the Company promptly upon receiving or becoming aware of such legal process.

(b) Executive affirms that he will not rely upon the protected trade secrets or confidential or proprietary information of any prior employer(s) in providing services to the Company or its subsidiaries.

(c) In the event that Executive's employment with the Company terminates for any reason, Executive shall deliver forthwith to the Company any and all originals and copies, including those in electronic or digital formats, of Confidential Information; *provided*, *however*, Executive shall be entitled to retain (i) papers and other materials of a personal nature, including, but not limited to, photographs, correspondence, personal diaries, calendars and rolodexes, personal files and phone books, (ii) information showing his compensation or relating to reimbursement of expenses, (iii) information that he reasonably believes may be needed for tax purposes, and (iv) copies of plans, programs and agreements relating to his employment, or termination thereof, with the Company.

13. Non-Competition and Non-Solicitation.

(a) Executive agrees and acknowledges that the non-competition restrictions set forth herein are reasonable and necessary and do not impose undue hardship or burdens on Executive. Executive also acknowledges that the products and services developed or provided by the Company, its affiliates and/or its clients or customers are or are intended to be sold, provided, licensed and/or distributed to customers and clients primarily in and throughout the United States (the "Territory") (to the extent the Company comes to operate, either directly or through the engagement of a distributor or joint or co-venturer, or sell a significant amount of its products and services to customers located, in areas other than the United States during the term of the Employment Period, the definition of Territory shall be automatically expanded to cover such other areas), and that the Territory, scope of prohibited competition, and time duration set forth in the non-competition restrictions set forth below are reasonable and necessary to maintain the value of the Confidential Information of, and to protect the goodwill and other legitimate business interests of, the Company, its affiliates and/or its clients or customers. The provisions of this Section 13 shall survive the termination of Executive's employment hereunder.

(b) Executive hereby agrees and covenants that he shall not without the prior written consent of the Company, directly or indirectly, in any capacity whatsoever, including, without limitation, as an employee, employer, consultant, principal, partner, shareholder, officer, director or any other individual or representative capacity (other than (i) as a holder of less than ten (10%) percent of the outstanding securities of a Company whose shares are traded on any national securities exchange or (ii) as a limited partner, passive minority interest holder in a venture capital fund, private equity fund or similar investment entity which holds or may hold an equity or debt position in portfolio companies that are competitive with the Company; *provided however*, that Executive shall be precluded from serving as an operating partner, general partner, manager or governing board designee with respect to such portfolio companies), or whether on Executive's own behalf or on behalf of any other person or entity or otherwise, during the "Non-Competition and Non-Solicitation Period" (as defined below) and within the Territory:

(1) Engage, own, manage, operate, control, be employed by, consult for, or participate in the ownership, management, operation or control of any business in competition with the business of the Company.

(2) Recruit, solicit or hire, or attempt to recruit, solicit or hire, any employee, or independent contractor of the Company to leave the employment (or independent contractor relationship) thereof, whether or not any such employee or independent contractor is party to an employment agreement, for the purpose of competing with the business of the Company;

(3) Attempt in any manner to solicit from any customer of the Company, with whom Executive had significant contact during Executive's employment by the Company (whether under this Agreement or otherwise), business that is competitive with the business done by the Company, or to persuade or attempt to persuade any such customer to cease to do business or to reduce the amount of business which such customer has customarily done with the Company, or if any such customer elects to move its business to a person other than the Company, provide any services of the kind or competitive with the business of the Company for such customer, or have any discussions regarding any such service with such customer, on behalf of such other person; or

(4) Interfere with any relationship, contractual or otherwise, between the Company and any other party, including, without limitation, any supplier, distributor, co-venturer or joint venturer of the Company, for the purpose of soliciting such other party to discontinue or reduce its business with the Company.

With respect to the activities described in Paragraphs (1), (2), (3) and (4) above, the restrictions of this Section 13(b) shall continue during the Employment Period and until one (1) year after the termination of Executive's employment with the Company (hereinafter the "Non-Competition and Non-Solicitation Period"); *provided, however*, that if this Agreement or Executive's employment is terminated by Executive for Good Reason or by the Company without Cause, then the restrictions of this Section 13 shall terminate concurrently with the termination and shall be of no further effect.

14. Inventions. All systems, inventions, discoveries, apparatus, techniques, methods, know-how, formulae or improvements made, developed or conceived by Executive during Executive's employment by the Company that (i) are directly relevant to the Company's business as then constituted, (ii) are developed as a part of the tasks and assignments that are the duties and responsibilities of Executive, and (iii) were created using substantially the Company's resources, such as time, materials and space, shall be and continue to remain the Company's exclusive property, without any added compensation or any reimbursement for expenses to Executive (except expenses pursuant to Section 9 must be paid to Executive), and upon the conception of any and every such invention, process, discovery or improvement during the Employment Period and without waiting to perfect or complete it, Executive promises and agrees that Executive will immediately disclose it to the Company and to no one else and thenceforth will treat it as the property and secret of the Company. Executive will also execute any instruments requested from time to time by the Company to vest in it complete title and ownership to such invention, discovery or improvement and will, at the request of the Company, do such acts and execute such instruments as the Company may require, but at the Company's expense to obtain patents, trademarks or copyrights in the United States and foreign countries, for such invention, discovery or improvement and for the purpose of vesting title thereto in the Company, all without any reimbursement for expenses (except as provided in Section 9 or otherwise) and without any additional compensation of any kind to Executive.

15. Section 409A.

The provisions of this Agreement are intended to comply with Section 409A of the Internal Revenue Code of 1986, as amended (the "Code") and any final regulations and guidance promulgated thereunder ("Section 409A") and shall be construed in a manner consistent with the requirements for avoiding taxes or penalties under Section 409A. The Company and Executive agree to work together in good faith to consider amendments to this Agreement and to take such reasonable actions which are necessary, appropriate or desirable to avoid imposition of any additional tax or income recognition prior to actual payment to Executive under Section 409A.

To the extent that Executive will be reimbursed for costs and expenses or in-kind benefits, except as otherwise permitted by Section 409A, (a) the right to reimbursement or in-kind benefits is not subject to liquidation or exchange for another benefit, (b) the amount of expenses eligible for reimbursement, or in-kind benefits, provided during any taxable year shall not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year; *provided* that the foregoing clause (b) shall not be violated with regard to expenses reimbursed under any arrangement covered by Section 105(b) of the Code solely because such expenses are subject to a limit related to the period the arrangement is in effect and (c) such payments shall be made on or before the last day of the taxable year following the taxable year in which you incurred the expense.

A termination of employment shall not be deemed to have occurred for purposes of any provision of this Agreement providing for the payment of any amounts or benefits upon or following a termination of employment unless such termination constitutes a "Separation from Service" within the meaning of Section 409A and, for purposes of any such provision of this Agreement references to a "termination," "termination of employment" or like terms shall mean Separation from Service.

Each installment payable hereunder shall constitute a separate payment for purposes of Treasury Regulation Section 1.409A-2(b), including Treasury Regulation Section 1.409A-2(b)(2)(iii). Each payment that is made within the terms of the "short-term deferral" rule set forth in Treasury Regulation Section 1.409A-1(b)(4) is intended to meet the "short-term deferral" rule. Each other payment is intended to be a payment upon an involuntary termination from service and payable pursuant to Treasury Regulation Section 1.409A-1(b)(9)(iii), et. seq., to the maximum extent permitted by that regulation, with any amount that is not exempt from Code Section 409A being subject to Code Section 409A.

Notwithstanding anything to the contrary in this Agreement, if Executive is a "specified employee" within the meaning of Section 409A, any payment otherwise due to Executive on or within the six (6) month period following Executive's termination will accrue during such six (6) month period and will become payable in one lump sum cash payment on the date six (6) months and one (1) day following the date of Executive's termination of employment, to the extent required to avoid any adverse tax consequences under Section 409A. Any remaining payment(s) will be payable in accordance with the payment schedule applicable to each payment or benefit. Notwithstanding anything herein to the contrary, if Executive dies following termination but prior to the six (6) month anniversary of Executive's termination date, then any payments delayed in accordance with this paragraph will be payable in a lump sum upon the date of Executive's death and all other amounts will be payable in accordance with the payment schedule applicable to each payment or benefit, to the extent and in a manner consistent with Section 409A.

16. Miscellaneous.

(a) Executive acknowledges that the services to be rendered by him under the provisions of this Agreement are of a special, unique and extraordinary character and that it would be difficult or impossible to replace such services. Furthermore, the parties acknowledge that monetary damages alone would not be an adequate remedy for any breach by Executive of Section 12 or Section 13 of this Agreement. Accordingly, Executive agrees that any breach by Executive of Section 12 or Section 13 of this Agreement shall entitle the Company, in addition to all other legal remedies available to it, to apply to any court of competent jurisdiction to seek to enjoin such breach. The parties understand and intend that each restriction agreed to by Executive hereinabove shall be construed as separable and divisible from every other restriction, that the unenforceability of any restriction shall not limit the enforceability, in whole or in part, of any other restriction, and that one or more or all of such restrictions may be enforced in whole or in part as applicable law allows. If any provision in this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, the parties agree that the remaining provisions of the Agreement will nevertheless continue to be valid and enforceable. The remedy of injunctive relief herein set forth shall be in addition to, and not in lieu of, any other rights or remedies that the Company may have at law or in equity.

(b) Neither Executive nor the Company may assign or delegate any of their rights or duties under this Agreement without the express written consent of the other; *provided*, *however*, that the Company shall have the right to delegate its obligation of payment of all sums due to Executive hereunder, *provided* that such delegation shall not relieve the Company of any of its obligations hereunder.

(c) During the term of this Agreement, the Company (i) shall indemnify and hold harmless Executive and his heirs and representatives as, and to the extent, provided in the Company's bylaws and (ii) shall cover Executive under the Company's directors' and officers' liability insurance on the same basis as it covers other senior executive officers and directors of the Company.

(d) This Agreement constitutes and embodies the full and complete understanding and agreement of the parties with respect to Executive's employment by the Company, supersedes all prior understandings and agreements, whether oral or written, between Executive and the Company, and shall not be amended, modified or changed except by an instrument in writing executed by the party to be charged (it being understood that, pursuant to Section 7, Share Awards shall govern with respect to the subject matter thereof). The invalidity or partial invalidity of one or more provisions of this Agreement shall not invalidate any other provision of this Agreement. No waiver by either party of any provision or condition to be performed shall be deemed a waiver of similar or dissimilar provisions or conditions at the same time or any prior or subsequent time.

(e) This Agreement shall inure to the benefit of, be binding upon and enforceable against, the parties hereto and their respective successors, heirs, beneficiaries and permitted assigns.

(f) The headings contained in this Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

(g) All notices, requests, demands and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when personally delivered, sent by registered or certified mail, return receipt requested, postage prepaid, or by reputable national overnight delivery service (e.g. Federal Express) for overnight delivery to the Company at its principal executive office or to Executive at his address of record in the Company's records, or to such other address as either party may hereafter give the other party notice of in accordance with the provisions hereof. Notices shall be deemed given on the sooner of the date actually received or the third business day after deposited in the mail or one business day after deposited with an overnight delivery service for overnight delivery.

(h) This Agreement shall be governed by and construed in accordance with the internal laws of the State of Arizona without reference to principles of conflicts of laws and each of the parties hereto irrevocably consents to the jurisdiction and venue of the federal and state courts located in the County of Pima, State of Arizona.

(i) This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one of the same instrument. The parties hereto have executed this Agreement as of the date set forth above.

(j) Executive represents and warrants to the Company that he has the full power and authority to enter into this Agreement and to perform his obligations hereunder and that the execution and delivery of this Agreement and the performance of his obligations hereunder will not conflict with any agreement to which Executive is a party.

(k) The Company represents and warrants to Executive that it has the full power and authority to enter into this Agreement and to perform its obligations hereunder and that the execution and delivery of this Agreement and the performance of its obligations hereunder will not conflict with any agreement to which the Company is a party.

[Remainder of page intentionally left blank; signature page follows.]

IN WITNESS WHEREOF, Executive and the Company have caused this Executive Employment Agreement to be executed as of the date first above written.

THE COMPANY:

AUDIOEYE, INC.

By: /s/ Carr Bettis

Name: Carr Bettis

Title: Executive Chairman

EXECUTIVE:

/s/ Todd A. Bankofier

Todd Bankofier

Exhibit 10.11

EXECUTIVE EMPLOYMENT AGREEMENT

This EXECUTIVE EMPLOYMENT AGREEMENT (this "Agreement") is made and entered into as of February 27, 2019, with an effective date of January 1, 2019 (the "Effective Date"), by and between AudioEye, Inc., a Delaware corporation with an address at 5210 East Williams Circle, Suite 750, Tucson, Arizona 85711 (the "Company"), and Sean Bradley, a natural person ("Executive").

WITNESSETH:

WHEREAS, Executive desires to be employed by the Company as its Co-Founder, President, and Chief Strategy Officer (the "Position") and the Company wishes to employ Executive in such capacity;

NOW, THEREFORE, in consideration of the foregoing recitals and the respective covenants and agreements of the parties contained in this document, the Company and Executive hereby agree as follows:

1. Employment and Duties. The Company agrees to employ and Executive agrees to serve in the Position. The duties and responsibilities of Executive shall include the duties and responsibilities as the Board of Directors of the Company (the "Board"), the Executive Chairman or the Chief Executive Officer may from time to time reasonably assign to Executive.

Executive shall devote all of his business time, attention, and energies to the business of the Company, *provided that* nothing in this Section 1 shall prohibit Executive from (a) serving as a director or trustee of any charitable or educational organization or (b) engaging in additional activities in connection with personal investments and community affairs, as long as these additional activities do not materially interfere, individually or collectively, with the performance of the duties and responsibilities of Executive, and these activities are not inconsistent with Executive's duties under this Agreement and do not violate the terms of Section 13.

2. Term. The term of this Agreement shall commence on the Effective Date and shall continue for a period of one (1) year (the "Term") unless earlier terminated pursuant to Section 6 or Section 11. If Executive's employment with the Company continues after the expiration of the Term, then any such employment after the Term shall be on an at will basis, meaning that either Executive or the Company may terminate the employment relationship and this Agreement at any time, for any or no reason, subject to the notice requirements in Section 11(g) of this Agreement. "Employment Period" shall mean the period that Executive is employed by the Company.

3. Place of Employment. Executive's job site shall be in Tucson, Arizona (the "Job Site"). The parties acknowledge, however, that Executive may be required to travel in connection with the performance of his duties hereunder.

4. Base Salary. For all services to be rendered by Executive pursuant to this Agreement, the Company agrees to pay Executive during the Employment Period a base salary (the "Base Salary") at an annual rate of $210,000. The Base Salary shall be paid in periodic installments in accordance with the Company's regular payroll practices.

5 Bonuses. During the Employment Period, the Board or the Compensation Committee of the Board (the "Compensation Committee") in its sole discretion may grant to Executive a bonus or bonuses.

6. Severance Compensation. The Company may terminate Executive's employment during the Term by providing written notice of the termination date pursuant to Section 11(g), subject to any additional notice requirements for a termination for "Cause" set forth in Section 11(c)(2). Upon termination of Executive's employment prior to expiration of the Term, unless Executive's employment is (i) terminated for Cause, (ii) terminated as a result of Death or Disability or (iii) Executive terminates his employment without Good Reason, then:

(a) Executive shall be entitled to receive (i) Base Salary earned through the termination date; (ii) reimbursement of reasonable expenses paid or incurred by Executive in connection with and related to the performance of his duties and responsibilities for the Company during the period ending on the termination date, (iii) any accrued but unused vacation time through the termination date in accordance with Company policy, and (iv) an amount equal to Executive's Base Salary (the "Separation Payment"), during the prior twelve (12) months (the "Separation Period"), provided that Executive executes an agreement releasing Company and its affiliates from any liability associated with Executive's employment with the Company in form and terms satisfactory to the Company and that all time periods imposed by law permitting cancellation or revocation of such release by Executive shall have passed or expired; and subject to anything to the contrary in Section 11(d)(3), the Separation Payment shall be paid in substantially equal installments over the course of the twelve (12) months following the date of termination in accordance with the customary payroll practices of the Company.

7. Equity Awards. Executive shall be eligible for such grants of awards under the AudioEye, Inc. 2012 Incentive Compensation Plan (or any successor or replacement plan adopted by the Board and approved by the stockholders of the Company, the "Plan") as the Compensation Committee may from time to time determine (the "Share Awards"). Share Awards shall be subject to the applicable Plan terms and conditions; provided, however, that Share Awards shall be subject to any additional terms and conditions as are provided herein or in any award agreement, which shall supersede any conflicting provisions governing Share Awards provided under the Plan.

8. Clawback Rights. All amounts paid to Executive by the Company (other than Executive's Base Salary and reimbursement of expenses pursuant to paragraph 9 hereof) during the Employment Period and any time thereafter and any and all stock based compensation (such as options and equity awards) granted during the Employment Period and any time thereafter (collectively, the "Clawback Benefits") shall be subject to "Clawback Rights" and to Executive's repayment of or surrender to the Company the Clawback Benefits during the period that Executive is employed by the Company and upon the termination of Executive's employment, for a period of three (3) years thereafter, if any of the following events occur. If a restatement (a "Restatement") of any financial results from which any Clawback Benefits to Executive shall have been determined (such restatement resulting from material non-compliance of the Company with any financial reporting requirement under the federal securities laws and shall not include a restatement of financial results resulting from subsequent changes in accounting pronouncements or requirements which were not in effect on the date the financial statements were originally prepared), then Executive agrees to immediately repay or surrender upon demand by the Company any Clawback Benefits which were determined by reference to any Company financial results which were later restated, to the extent the Clawback Benefits amounts paid exceed the Clawback Benefits amounts that would have been paid, based on the restatement of the Company's financial information. All Clawback Benefits amounts resulting from such Restatements shall be retroactively adjusted by the Compensation Committee to take into account the restated results. If any such excess portion of the Clawback Benefits resulting from such restated results is not so repaid or surrendered by Executive within ninety (90) days of the revised calculation being provided to Executive by the Company following a publicly announced restatement, then the Company shall have the right to take any and all action to effectuate such adjustment.

The amount of Clawback Benefits to be repaid or surrendered to the Company shall be determined by the Compensation Committee and applicable law, rules and regulations. All determinations by the Compensation Committee with respect to the Clawback Rights shall be final and binding on the Company and Executive. The parties acknowledge it is their intention that the foregoing Clawback Rights as relates to Restatements conform in all respects to the provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Dodd Frank Act") and requires recovery of all "incentive-based" compensation, pursuant to the provisions of the Dodd Frank Act and any and all rules and regulations promulgated thereunder from time to time in effect. Accordingly, the terms and provisions of this Agreement shall be deemed automatically amended from time to time to assure compliance with the Dodd Frank Act and such rules and regulation as hereafter may be adopted and in effect.

9. Expenses. Executive shall be entitled to prompt reimbursement by the Company for all reasonable ordinary and necessary travel, entertainment, and other expenses incurred by Executive while employed (in accordance with the policies and procedures established by the Company for its senior executive officers) in the performance of his duties and responsibilities under this Agreement; provided, that Executive shall properly account for such expenses in accordance with Company policies and procedures.

10. Other Benefits; Vacation. During the Employment Period, Executive shall be eligible to participate in incentive, stock purchase, savings, retirement (401(k)), and welfare benefit plans, including, without limitation, health, medical, dental, vision, life (including accidental death and dismemberment) and disability insurance plans (collectively, "Benefit Plans"), in substantially the same manner and at substantially the same levels as the Company makes such opportunities available to the Company's managerial or salaried executive employees. During the Employment Period, Executive shall be entitled to accrue, on a pro rata basis, twenty (20) paid vacation days per year, which if not taken will accrue and be carried forward. Vacation shall be taken at such times as are mutually convenient to Executive and the Company and no more than twenty (20) consecutive days shall be taken at any one time without the advance written approval of the Chief Executive Officer.

11. Termination of Employment.

(a) Death. If Executive dies during the Employment Period, this Agreement and Executive's employment with the Company shall automatically terminate and the Company shall have no further obligations to Executive or his heirs, administrators or executors with respect to compensation and benefits accruing thereafter, except for the obligation to pay to Executive's heirs, administrators or executors any earned but unpaid Base Salary, reimbursement of any and all reasonable expenses paid or incurred by Executive in connection with and related to the performance of his duties and responsibilities for the Company during the period ending on the termination date and any accrued but unused vacation time through the termination date in accordance with Company policy. The Company shall deduct, from all payments made hereunder, all applicable taxes, including income tax, FICA and FUTA, and other appropriate deductions.

(b) Disability. In the event that, during the Employment Period Executive shall be prevented from performing his duties and responsibilities hereunder to the full extent required by the Company by reason of Disability (as defined below), this Agreement and Executive's employment with the Company shall automatically terminate and the Company shall have no further obligations or liability to Executive or his heirs, administrators or executors with respect to compensation and benefits accruing thereafter, except for the obligation to pay Executive or his heirs, administrators or executors any earned but unpaid Base Salary, reimbursement of any and all reasonable expenses paid or incurred by Executive in connection with and related to the performance of his duties and responsibilities for the Company during the period ending on the termination date and any accrued but unused vacation time through the termination date in accordance with Company policy. The Company shall deduct, from all payments made hereunder, all applicable taxes, including income tax, FICA and FUTA, and other appropriate deductions through the last date of Executive's employment with the Company. For purposes of this Agreement, "Disability" shall mean a physical or mental disability that prevents the performance by Executive, with or without reasonable accommodation, of his duties and responsibilities hereunder for a total of sixty five (65) business days during any twelve (12) consecutive months.

(c) Cause.

(1) At any time during the Employment Period, the Company may terminate this Agreement and Executive's employment hereunder for Cause. For purposes of this Agreement, "Cause" shall consist of a termination due to the following, as specified in the written notice of termination (and in each case following written notice a failure by Executive to cure within thirty (30) days of such notice except as to clauses (E) or (F) which shall not be subject to cure): (A) Executive's failure to substantially perform the fundamental duties and responsibilities associated with Executive's position for any reason other than a physical or mental disability, including Executive's failure or refusal to carry out reasonable instructions; (B) Executive's material breach of any material written Company policy; (C) Executive's gross misconduct in the performance of Executive's duties for the Company; (D) Executive's material breach of the terms of this Agreement; (E) being arrested or charged with any fraudulent or felony criminal offense or any other criminal offense which reflects adversely on the Company or reflects conduct or character that the Board reasonably concludes is inconsistent with continued employment; or (F) any criminal conduct that is a "statutory disqualifying event" (as defined under federal securities laws, rules and regulations).

(2) Prior to any termination for Cause, Executive will be given five (5) business days written notice specifying the alleged Cause event and will be entitled to appear (with counsel) before the full Board to present information regarding his views on the Cause event, and after such hearing, there is at least a majority vote of the full Board to terminate him for Cause. After providing the notice in foregoing sentence, the Board may suspend Executive with full pay and benefits until a final determination pursuant to this Section 11(c) has been made.

(3) Upon termination of this Agreement for Cause, the Company shall have no further obligations or liability to Executive or his heirs, administrators or executors with respect to compensation and benefits thereafter, except for the obligation to pay Executive any earned but unpaid Base Salary, reimbursement of any and all reasonable expenses paid or incurred by Executive in connection with and related to the performance of his duties and responsibilities for the Company during the period ending on the termination date, and any accrued but unused vacation time through the termination date in accordance with Company policy. The Company shall deduct, from all payments made hereunder, all applicable taxes, including income tax, FICA and FUTA, and other appropriate deductions.

(d) Good Reason and Without Cause.

(1) At any time during the term of this Agreement, subject to the conditions set forth in Section 11(d)(2) below, Executive may terminate this Agreement and Executive's employment with the Company for "Good Reason." For purposes of this Agreement, "Good Reason" shall mean any of the following actions taken by the Company or a successor corporation or entity without Executive's consent: (A) material reduction of Executive's base compensation; (B) material reduction in Executive's title, authority, duties or responsibilities; (C) failure or refusal of a successor to the Company to materially assume the Company's obligations under this Agreement in the event of a Change of Control as defined in Section 11(f)(ii); (D) relocation of Executive's Job Site that results in an increase in Executive's one-way driving distance by more than fifty (50) miles from Executive's then-current principal residence; or (E) any other material breach by the Company of this Agreement.

(2) Executive shall not be entitled to terminate this Agreement for Good Reason unless and until he or she shall have delivered written notice to the Company within ninety (90) days of the date upon which the facts giving rise to Good Reason occurred of his intention to terminate this Agreement and his employment with the Company for Good Reason, which notice specifies in reasonable detail the circumstances claimed to provide the basis for such termination for Good Reason, the Company shall not have eliminated the circumstances constituting Good Reason within thirty (30) days of its receipt from Executive of such written notice, and Executive, in fact, terminates this Agreement and his employment with the Company for Good Reason within 120 days following the initial existence of the event triggering Good Reason.

(3) In the event that Executive terminates this Agreement and his employment with the Company for Good Reason or the Company terminates this Agreement and Executive's employment with the Company without Cause, the Company shall pay or provide to Executive (or, following his death, to Executive's heirs, administrators or executors) the Separation Payment amount. The Company shall deduct, from all payments made hereunder, all applicable taxes, including income tax, FICA and FUTA, and other appropriate deductions.

(4) Notwithstanding anything herein to the contrary, the benefits to Executive under this Agreement shall be reduced by the amount of any insurance proceeds payable to Executive, as determined by the Company, but only to the extent that such reduction would not cause adverse tax consequences under Section 409A of the Code (as defined below).

(e) Without "Good Reason" by Executive. At any time during the term of this Agreement, Executive shall be entitled to terminate this Agreement and Executive's employment with the Company without Good Reason by providing prior written notice of at least thirty (30) days to the Company. Upon termination by Executive of this Agreement or Executive's employment with the Company without Good Reason, the Company shall have no further obligations or liability to Executive or his heirs, administrators or executors with respect to compensation and benefits thereafter, except for the obligation to pay Executive any earned but unpaid Base Salary, reimbursement of any and all reasonable expenses paid or incurred by Executive in connection with and related to the performance of his duties and responsibilities for the Company during the period ending on the termination date, and any accrued but unused vacation time through the termination date in accordance with Company policy. The Company shall deduct, from all payments made hereunder, all applicable taxes, including income tax, FICA and FUTA, and other appropriate deductions.

(f) Change of Control. For purposes of this Agreement, "Change of Control" shall mean the occurrence of any one or more of the following: (i) the accumulation (if over time, in any consecutive twelve (12) month period), whether directly, indirectly, beneficially or of record, by any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Securities Exchange Act of 1934, as amended) of 50.1% or more of the shares of the outstanding common stock of the Company, whether by merger, consolidation, sale or other transfer of shares of Company common stock (other than a merger or consolidation where the stockholders of the Company prior to the merger or consolidation are the holders of a majority of the voting securities of the entity that survives such merger or consolidation), (ii) a sale of all or substantially all of the assets of the Company or (iii) during any period of twelve (12) consecutive months, the individuals who, at the beginning of such period, constitute the Board, and any new director whose election by the Board or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds (2/3) of the directors then still in office who either were directors at the beginning of the 12-month period or whose election or nomination for election was previously so approved, cease for any reason to constitute at least a majority of the Board; *provided, however*, that the following acquisitions shall not constitute a Change of Control for the purposes of this Agreement: (A) any acquisitions of Company common stock or securities convertible, exercisable or exchangeable into Company common stock directly from the Company, or (B) any acquisition of Company common stock or securities convertible, exercisable or exchangeable into Company common stock by any employee benefit plan (or related trust) sponsored by or maintained by the Company.

(g) Any termination of Executive's employment by the Company or by Executive (other than termination by reason of Executive's death) shall be communicated by written Notice of Termination to the other party of this Agreement. For purposes of this Agreement, a "Notice of Termination" shall mean a written notice which shall indicate the specific termination provision in this Agreement relied upon and shall set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of Executive's employment under the provision so indicated, provided, however, failure to provide timely notification shall not affect the employment status of Executive.

12. Confidential Information.

(a) Disclosure of Confidential Information. Executive recognizes, acknowledges and agrees that he or she has had and will continue to have access to secret and confidential information regarding the Company, its subsidiaries and their respective businesses ("Confidential Information"), including but not limited to, its products, methods, formulas, software code, patents, sources of supply, customer dealings, data, know-how, trade secrets and business plans, provided such information is not in or does not hereafter become part of the public domain, or become known to others through no fault of Executive. Executive acknowledges that such information is of great value to the Company, is the sole property of the Company, and has been and will be acquired by him in confidence. In consideration of the obligations undertaken by the Company herein, Executive will not, at any time, during or after his employment hereunder, reveal, divulge or make known to any person, any information acquired by Executive during the course of his employment, which is treated as confidential by the Company, and not otherwise in the public domain. The provisions of this Section 12 shall survive the termination of Executive's employment hereunder for a period of three (3) years. Information will not be deemed to be Confidential Information if: (i) the information was in Executive's possession or within Executive's knowledge before the Company disclosed it to Executive; (ii) the information was or became generally known to those who could take economic advantage of it; (iii) Executive obtained the information from a third party that was not known by Executive to be bound by a confidentiality agreement or other obligation of confidentiality to the Company or any other party with respect to such information; or (iv) Executive is required to disclose the information pursuant to legal process (e.g. a subpoena), provided that Executive notifies the Company promptly upon receiving or becoming aware of such legal process.

(b) Executive affirms that he or she will not rely upon the protected trade secrets or confidential or proprietary information of any prior employer(s) in providing services to the Company or its subsidiaries.

(c) In the event that Executive's employment with the Company terminates for any reason, Executive shall deliver forthwith to the Company any and all originals and copies, including those in electronic or digital formats, of Confidential Information; provided, however, Executive shall be entitled to retain (i) papers and other materials of a personal nature, including, but not limited to, photographs, correspondence, personal diaries, calendars and rolodexes, personal files and phone books, (ii) information showing his compensation or relating to reimbursement of expenses, (iii) information that he or she reasonably believes may be needed for tax purposes and (iv) copies of plans, programs and agreements relating to his employment, or termination thereof, with the Company.

(d) Notwithstanding any provision of this Agreement to the contrary, under 18 U.S.C. §1833(b), "An individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that (A) is made (i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal." Nothing in this Agreement or any other Company policy is intended to conflict with this statutory protection, and no Company director, officer, or member of management has the authority to impose any rule to the contrary.

13. Non-Competition and Non-Solicitation.

(a) Executive agrees and acknowledges that the non-competition restrictions set forth herein are reasonable and necessary to protect the Company's legitimate proprietary interests and do not impose undue hardship or burdens on Executive. Executive also acknowledges that the technology, software and related products and services developed or provided by the Company and its affiliates relating to ADA-related and other digital accessibility compliance requirements and enhancements (the "Business") are or are intended to be sold, provided, licensed and/or distributed to customers and clients primarily in and throughout the United States (the "Territory") (to the extent the Company comes to operate, either directly or through the engagement of a distributor or joint or co-venturer, or sell a significant amount of its products and services to customers located, in areas other than the United States during the Employment Period, the definition of Territory shall be automatically expanded to cover such other areas in which the Company did business at any time during the last year of Employee's employment with the Company). If that geographical scope of the Territory is deemed by a court of competent jurisdiction to be overly broad, then the Territory extends to the United States, Guam and Puerto Rico; or if that geographical scope is deemed by a court to be overly broad, then the Territory extends to the United States; or if that geographical scope is deemed by a court of competent jurisdiction to be overly broad, then the Territory extends to Pima County, Arizona and Maricopa County, Arizona. Executive further acknowledges and agrees that the Territory, scope of prohibited competition with the Business, and time duration set forth in the non-competition restrictions set forth below are reasonable and necessary to maintain the value of the Confidential Information of, and to protect the goodwill and other legitimate business interests of, the Company, its affiliates and/or its clients or customers. The provisions of this Section 13 shall survive the termination of Executive's employment hereunder.

(b) Executive hereby agrees and covenants that he or she shall not without the prior written consent of the Company, directly or indirectly, in any capacity whatsoever, including, without limitation, as an employee, employer, consultant, principal, partner, shareholder, officer, director or any other individual or representative capacity (other than (i) as a holder of less than ten (10%) percent of the outstanding securities of a Company whose shares are traded on any national securities exchange or (ii) as a limited partner, passive minority interest holder in a venture capital fund, private equity fund or similar investment entity which holds or may hold an equity or debt position in portfolio companies that are competitive with the Company's Business; provided however, that Executive shall be precluded from serving as an operating partner, general partner, manager or governing board designee with respect to such portfolio companies), or whether on Executive's own behalf or on behalf of any other person or entity or otherwise howsoever, during the Employment Period and the Separation Period and thereafter to the extent described below, within the Territory:

(1) Engage, own, manage, operate, control, be employed by, consult for, participate in, or be connected in any manner with the ownership, management, operation or control of any business in competition with the Business of the Company;

(2) Recruit, solicit or hire, or attempt to recruit, solicit or hire, any current or former employee, or independent contractor of the Company who was employed by or contracted with the Company any time during the final year of Executive's employment with the Company, to leave the employment (or independent contractor relationship) thereof, whether or not any such employee or independent contractor is party to an employment agreement, for the purpose of competing with the Business of the Company;

(3) Attempt in any manner to solicit or accept from any customer of the Company, with whom Executive had significant contact with or knowledge of during Executive's employment by the Company (whether under this Agreement or otherwise), business of the kind or competitive with the Company's Business with such customer or to persuade or attempt to persuade any such customer to cease to do business or to reduce the amount of business which such customer has customarily done or might do with the Company, or if any such customer elects to move its business to a person other than the Company, provide any services of the kind or competitive with the Business of the Company for such customer, or have any discussions regarding any such service with such customer, on behalf of such other person; or

(4) Interfere with the Company's Business or with any relationship, contractual or otherwise, between the Company and any other party, including, without limitation, any employee, customer, supplier, distributor, co-venturer or joint venturer of the Company, for the purpose of soliciting such other party to discontinue or reduce its business with the Company.

With respect to the activities described in Paragraphs (1), (2), (3) and (4) above, the restrictions of this Section 13(b) shall continue during the Employment Period and until one (1) year following the termination of this Agreement or of Executive's employment with the Company (including upon expiration of this Agreement), whichever occurs later; provided, however, that if this Agreement or Executive's employment is terminated by Executive for Good Reason or by the Company without Cause, then the restrictions of this Section 13(b) shall terminate concurrently with the termination and shall be of no further effect. In the event that any provision of this Section 13 is determined by a court of competent jurisdiction to be unenforceable, such provision shall not render the entire Section unenforceable but, to the extent possible, the court may appropriately blue pencil the Section to render such provision enforceable.

14. Inventions. All systems, inventions, discoveries, apparatus, techniques, methods, know-how, formulae or improvements made, developed or conceived by Executive during Executive's employment by the Company that (i) are directly relevant to the Company's business as then constituted, (ii) are developed as a part of the tasks and assignments that are the duties and responsibilities of Executive, and (iii) were created using substantially the Company's resources, such as time, materials and space, shall be and continue to remain the Company's exclusive property, without any added compensation or any reimbursement for expenses to Executive, and upon the conception of any and every such invention, process, discovery or improvement and without waiting to perfect or complete it, Executive promises and agrees that Executive will immediately disclose it to the Company and to no one else and thenceforth will treat it as the property and secret of the Company. Executive will also execute any instruments requested from time to time by the Company to vest in it complete title and ownership to such invention, discovery or improvement and will, at the request of the Company, do such acts and execute such instruments as the Company may require, but at the Company's expense to obtain patents, trademarks or copyrights in the United States and foreign countries, for such invention, discovery or improvement and for the purpose of vesting title thereto in the Company, all without any reimbursement for expenses (except as provided in Section 9 or otherwise) and without any additional compensation of any kind to Executive.

15. Section 409A.

The provisions of this Agreement are intended to comply with or meet an exemption from Section 409A of the Internal Revenue Code of 1986, as amended (the "Code") and any final regulations and guidance promulgated thereunder ("Section 409A") and shall be construed in a manner consistent with the requirements for avoiding taxes or penalties under Section 409A. The Company and Executive agree to work together in good faith to consider amendments to this Agreement and to take such reasonable actions which are necessary, appropriate or desirable to avoid imposition of any additional tax or income recognition prior to actual payment to Executive under Section 409A.

To the extent that Executive will be reimbursed for costs and expenses or in-kind benefits, except as otherwise permitted by Section 409A, (a) the right to reimbursement or in-kind benefits is not subject to liquidation or exchange for another benefit, (b) the amount of expenses eligible for reimbursement, or in-kind benefits, provided during any taxable year shall not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year; provided that the foregoing clause (b) shall not be violated with regard to expenses reimbursed under any arrangement covered by Section 105(b) of the Code solely because such expenses are subject to a limit related to the period the arrangement is in effect and (c) such payments shall be made on or before the last day of the taxable year following the taxable year in which you incurred the expense.

A termination of employment shall not be deemed to have occurred for purposes of any provision of this Agreement providing for the payment of any amounts or benefits upon or following a termination of employment unless such termination constitutes a "Separation from Service" within the meaning of Section 409A and, for purposes of any such provision of this Agreement references to a "termination," "termination of employment" or like terms shall mean Separation from Service.

Each installment payable hereunder shall constitute a separate payment for purposes of Treasury Regulation Section 1.409A-2(b), including Treasury Regulation Section 1.409A-2(b)(2)(iii). Each payment that is made within the terms of the "short-term deferral" rule set forth in Treasury Regulation Section 1.409A-1(b)(4) is intended to meet the "short-term deferral" rule. Each other payment is intended to be a payment upon an involuntary termination from service and payable pursuant to Treasury Regulation Section 1.409A-1(b)(9)(iii), et. seq., to the maximum extent permitted by that regulation, with any amount that is not exempt from Code Section 409A being subject to Code Section 409A.

Notwithstanding anything to the contrary in this Agreement, if Executive is a "specified employee" within the meaning of Section 409A, any payment otherwise due to Executive on or within the six (6) month period following Executive's termination will accrue during such six (6) month period and will become payable in one lump sum cash payment on the date six (6) months and one (1) day following the date of Executive's termination of employment, to the extent required to avoid any adverse tax consequences under Section 409A. Any remaining payment(s), will be payable in accordance with the payment schedule applicable to each payment or benefit. Notwithstanding anything herein to the contrary, if Executive dies following termination but prior to the six (6) month anniversary of Executive's termination date, then any payments delayed in accordance with this paragraph will be payable in a lump sum as soon as administratively practicable after the date of Executive's death and all other amounts will be payable in accordance with the payment schedule applicable to each payment or benefit, to the extent and in a manner consistent with Section 409A.

16. Miscellaneous.

(a) Executive acknowledges that the services to be rendered by him under the provisions of this Agreement are of a special, unique and extraordinary character and that it would be difficult or impossible to replace such services. Furthermore, the parties acknowledge that monetary damages alone would not be an adequate remedy for any breach by Executive of Section 12 or Section 13 of this Agreement. Accordingly, Executive agrees that any breach by Executive of Section 12 or Section 13 of this Agreement shall entitle the Company, in addition to all other legal remedies available to it, to apply to any court of competent jurisdiction to seek to enjoin such breach. The parties understand and intend that each restriction agreed to by Executive hereinabove shall be construed as separable and divisible from every other restriction, that the unenforceability of any restriction shall not limit the enforceability, in whole or in part, of any other restriction, and that one or more or all of such restrictions may be enforced in whole or in part as the circumstances warrant. In the event that any restriction in this Agreement is more restrictive than permitted by law in the jurisdiction in which the Company seeks enforcement thereof, such restriction shall be limited to the extent permitted by law. The remedy of injunctive relief herein set forth shall be in addition to, and not in lieu of, any other rights or remedies that the Company may have at law or in equity.

(b) Neither Executive nor the Company may assign or delegate any of their rights or duties under this Agreement without the express written consent of the other; provided, however, that the Company shall have the right to delegate its obligation of payment of all sums due to Executive hereunder, provided that such delegation shall not relieve the Company of any of its obligations hereunder.

(c) During the term of this Agreement, the Company (i) shall indemnify and hold harmless Executive and his heirs and representatives as, and to the extent, provided in the Company's bylaws and (ii) shall cover Executive under the Company's directors' and officers' liability insurance on the same basis as it covers other senior executive officers and directors of the Company.

(d) Agreement constitutes and embodies the full and complete understanding and agreement of the parties with respect to Executive's employment by the Company, supersedes all prior understandings and agreements, whether oral or written, between Executive and the Company, and shall not be amended, modified or changed except by an instrument in writing executed by the party to be charged (it being understood that, pursuant to Section 7, Share Awards shall govern with respect to the subject matter thereof). The invalidity or partial invalidity of one or more provisions of this Agreement shall not invalidate any other provision of this Agreement. No waiver by either party of any provision or condition to be performed shall be deemed a waiver of similar or dissimilar provisions or conditions at the same time or any prior or subsequent time.

(e) This Agreement shall inure to the benefit of, be binding upon and enforceable against, the parties hereto and their respective successors, heirs, beneficiaries and permitted assigns.

(f) The headings contained in this Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

(g) All notices, requests, demands and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when personally delivered, sent by registered or certified mail, return receipt requested, postage prepaid, or by reputable national overnight delivery service (e.g. Federal Express) for overnight delivery to the Company at its principal executive office or to Executive at his address of record in the Company's records, or to such other address as either party may hereafter give the other party notice of in accordance with the provisions hereof. Notices shall be deemed given on the sooner of the date actually received or the third business day after deposited in the mail or one business day after deposited with an overnight delivery service for overnight delivery.

(h) This Agreement shall be governed by and construed in accordance with the internal laws of the State of Arizona without reference to principles of conflicts of laws and each of the parties hereto irrevocably consents to the exclusive jurisdiction and venue of the federal and state courts located in the County of Pima, State of Arizona.

(i) This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one of the same instrument. The parties hereto have executed this Agreement as of the date set forth above.

(j) Executive represents and warrants to the Company that he or she has the full power and authority to enter into this Agreement and to perform his obligations hereunder and that the execution and delivery of this Agreement and the performance of his obligations hereunder will not conflict with any agreement to which Executive is a party.

(k) The Company represents and warrants to Executive that it has the full power and authority to enter into this Agreement and to perform its obligations hereunder and that the execution and delivery of this Agreement and the performance of its obligations hereunder will not conflict with any agreement to which the Company is a party.

[Remainder of page intentionally left blank; signature page follows.]

IN WITNESS WHEREOF, Executive and the Company have caused this Executive Employment Agreement to be executed as of the date first above written.

THE COMPANY:

AUDIOEYE, INC.

By: /s/ Todd A. Bankofier
Name: Todd Bankofier
Title: Chief Executive Officer

EXECUTIVE:

/s/ Sean Bradley
Sean Bradley

Exhibit 10.12

EXECUTIVE EMPLOYMENT AGREEMENT

This EXECUTIVE EMPLOYMENT AGREEMENT (this "Agreement") is made and entered into as of February 28, 2019, with an effective date of January 1, 2019 (the "Effective Date"), by and between AudioEye, Inc., a Delaware corporation with an address at 5210 East Williams Circle, Suite 750, Tucson, Arizona 85711 (the "Company"), and Lonny Sternberg, a natural person ("Executive").

WITNESSETH:

WHEREAS, Executive desires to be employed by the Company as its Chief Operating Officer (the "Position") and the Company wishes to employ Executive in such capacity;

NOW, THEREFORE, in consideration of the foregoing recitals and the respective covenants and agreements of the parties contained in this document, the Company and Executive hereby agree as follows:

1. Employment and Duties. The Company agrees to employ and Executive agrees to serve in the Position. The duties and responsibilities of Executive shall include the duties and responsibilities as the Board of Directors of the Company (the "Board"), the Executive Chairman or the Chief Executive Officer may from time to time reasonably assign to Executive.

Executive shall devote all of his business time, attention, and energies to the business of the Company, *provided that* nothing in this Section 1 shall prohibit Executive from (a) serving as a director or trustee of any charitable or educational organization or (b) engaging in additional activities in connection with personal investments and community affairs, as long as these additional activities do not materially interfere, individually or collectively, with the performance of the duties and responsibilities of Executive, and these activities are not inconsistent with Executive's duties under this Agreement and do not violate the terms of Section 13.

2. Term. The term of this Agreement shall commence on the Effective Date and shall continue for a period of one (1) year (the "Term") unless earlier terminated pursuant to Section 6 or Section 11. If Executive's employment with the Company continues after the expiration of the Term, then any such employment after the Term shall be on an at will basis, meaning that either Executive or the Company may terminate the employment relationship and this Agreement at any time, for any or no reason, subject to the notice requirements in Section 11(g) of this Agreement. "Employment Period" shall mean the period that Executive is employed by the Company.

3. Place of Employment. Executive's job site shall be in Tucson, Arizona (the "Job Site"). The parties acknowledge, however, that Executive may be required to travel in connection with the performance of his duties hereunder.

4. Base Salary. For all services to be rendered by Executive pursuant to this Agreement, the Company agrees to pay Executive during the Employment Period a base salary (the "Base Salary") at an annual rate of $190,000. The Base Salary shall be paid in periodic installments in accordance with the Company's regular payroll practices.

5. Bonuses. During the Employment Period, the Board or the Compensation Committee of the Board (the "Compensation Committee") in its sole discretion may grant to Executive a bonus or bonuses.

6. Severance Compensation. The Company may terminate Executive's employment during the Term by providing written notice of the termination date pursuant to Section 11(g), subject to any additional notice requirements for a termination for "Cause" set forth in Section 11(c)(2). Upon termination of Executive's employment prior to expiration of the Term, unless Executive's employment is (i) terminated for Cause, (ii) terminated as a result of Death or Disability or (iii) Executive terminates his employment without Good Reason, then:

(a) Executive shall be entitled to receive (i) Base Salary earned through the termination date; (ii) reimbursement of reasonable expenses paid or incurred by Executive in connection with and related to the performance of his duties and responsibilities for the Company during the period ending on the termination date, (iii) any accrued but unused vacation time through the termination date in accordance with Company policy, and (iv) an amount equal to Executive's Base Salary (the "Separation Payment"), during the prior twelve (12) months (the "Separation Period"), provided that Executive executes an agreement releasing Company and its affiliates from any liability associated with Executive's employment with the Company in form and terms satisfactory to the Company and that all time periods imposed by law permitting cancellation or revocation of such release by Executive shall have passed or expired; and subject to anything to the contrary in Section 11(d)(3), the Separation Payment shall be paid in substantially equal installments over the course of the twelve (12) months following the date of termination in accordance with the customary payroll practices of the Company.

7. Equity Awards. Executive shall be eligible for such grants of awards under the AudioEye, Inc. 2012 Incentive Compensation Plan (or any successor or replacement plan adopted by the Board and approved by the stockholders of the Company, the "Plan") as the Compensation Committee may from time to time determine (the "Share Awards"). Share Awards shall be subject to the applicable Plan terms and conditions; provided, however, that Share Awards shall be subject to any additional terms and conditions as are provided herein or in any award agreement, which shall supersede any conflicting provisions governing Share Awards provided under the Plan.

8. Clawback Rights. All amounts paid to Executive by the Company (other than Executive's Base Salary and reimbursement of expenses pursuant to paragraph 9 hereof) during the Employment Period and any time thereafter and any and all stock based compensation (such as options and equity awards) granted during the Employment Period and any time thereafter (collectively, the "Clawback Benefits") shall be subject to "Clawback Rights" and to Executive's repayment of or surrender to the Company the Clawback Benefits during the period that Executive is employed by the Company and upon the termination of Executive's employment, for a period of three (3) years thereafter, if any of the following events occur. If a restatement (a "Restatement") of any financial results from which any Clawback Benefits to Executive shall have been determined (such restatement resulting from material non-compliance of the Company with any financial reporting requirement under the federal securities laws and shall not include a restatement of financial results resulting from subsequent changes in accounting pronouncements or requirements which were not in effect on the date the financial statements were originally prepared), then Executive agrees to immediately repay or surrender upon demand by the Company any Clawback Benefits which were determined by reference to any Company financial results which were later restated, to the extent the Clawback Benefits amounts paid exceed the Clawback Benefits amounts that would have been paid, based on the restatement of the Company's financial information. All Clawback Benefits amounts resulting from such Restatements shall be retroactively adjusted by the Compensation Committee to take into account the restated results. If any such excess portion of the Clawback Benefits resulting from such restated results is not so repaid or surrendered by Executive within ninety (90) days of the revised calculation being provided to Executive by the Company following a publicly announced restatement, then the Company shall have the right to take any and all action to effectuate such adjustment.

The amount of Clawback Benefits to be repaid or surrendered to the Company shall be determined by the Compensation Committee and applicable law, rules and regulations. All determinations by the Compensation Committee with respect to the Clawback Rights shall be final and binding on the Company and Executive. The parties acknowledge it is their intention that the foregoing Clawback Rights as relates to Restatements conform in all respects to the provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Dodd Frank Act") and requires recovery of all "incentive-based" compensation, pursuant to the provisions of the Dodd Frank Act and any and all rules and regulations promulgated thereunder from time to time in effect. Accordingly, the terms and provisions of this Agreement shall be deemed automatically amended from time to time to assure compliance with the Dodd Frank Act and such rules and regulation as hereafter may be adopted and in effect.

9. Expenses. Executive shall be entitled to prompt reimbursement by the Company for all reasonable ordinary and necessary travel, entertainment, and other expenses incurred by Executive while employed (in accordance with the policies and procedures established by the Company for its senior executive officers) in the performance of his duties and responsibilities under this Agreement; provided, that Executive shall properly account for such expenses in accordance with Company policies and procedures.

10. Other Benefits; Vacation. During the Employment Period, Executive shall be eligible to participate in incentive, stock purchase, savings, retirement (401(k)), and welfare benefit plans, including, without limitation, health, medical, dental, vision, life (including accidental death and dismemberment) and disability insurance plans (collectively, "Benefit Plans"), in substantially the same manner and at substantially the same levels as the Company makes such opportunities available to the Company's managerial or salaried executive employees. During the Employment Period, Executive shall be entitled to accrue, on a pro rata basis, twenty (20) paid vacation days per year, which if not taken will accrue and be carried forward. Vacation shall be taken at such times as are mutually convenient to Executive and the Company and no more than twenty (20) consecutive days shall be taken at any one time without the advance written approval of the Chief Executive Officer.

11. Termination of Employment.

(a) Death. If Executive dies during the Employment Period, this Agreement and Executive's employment with the Company shall automatically terminate and the Company shall have no further obligations to Executive or his heirs, administrators or executors with respect to compensation and benefits accruing thereafter, except for the obligation to pay to Executive's heirs, administrators or executors any earned but unpaid Base Salary, reimbursement of any and all reasonable expenses paid or incurred by Executive in connection with and related to the performance of his duties and responsibilities for the Company during the period ending on the termination date and any accrued but unused vacation time through the termination date in accordance with Company policy. The Company shall deduct, from all payments made hereunder, all applicable taxes, including income tax, FICA and FUTA, and other appropriate deductions.

(b) Disability. In the event that, during the Employment Period Executive shall be prevented from performing his duties and responsibilities hereunder to the full extent required by the Company by reason of Disability (as defined below), this Agreement and Executive's employment with the Company shall automatically terminate and the Company shall have no further obligations or liability to Executive or his heirs, administrators or executors with respect to compensation and benefits accruing thereafter, except for the obligation to pay Executive or his heirs, administrators or executors any earned but unpaid Base Salary, reimbursement of any and all reasonable expenses paid or incurred by Executive in connection with and related to the performance of his duties and responsibilities for the Company during the period ending on the termination date and any accrued but unused vacation time through the termination date in accordance with Company policy. The Company shall deduct, from all payments made hereunder, all applicable taxes, including income tax, FICA and FUTA, and other appropriate deductions through the last date of Executive's employment with the Company. For purposes of this Agreement, "Disability" shall mean a physical or mental disability that prevents the performance by Executive, with or without reasonable accommodation, of his duties and responsibilities hereunder for a total of sixty five (65) business days during any twelve (12) consecutive months.

(c) Cause.

(1) At any time during the Employment Period, the Company may terminate this Agreement and Executive's employment hereunder for Cause. For purposes of this Agreement, "Cause" shall consist of a termination due to the following, as specified in the written notice of termination (and in each case following written notice a failure by Executive to cure within thirty (30) days of such notice except as to clauses (E) or (F) which shall not be subject to cure): (A) Executive's failure to substantially perform the fundamental duties and responsibilities associated with Executive's position for any reason other than a physical or mental disability, including Executive's failure or refusal to carry out reasonable instructions; (B) Executive's material breach of any material written Company policy; (C) Executive's gross misconduct in the performance of Executive's duties for the Company; (D) Executive's material breach of the terms of this Agreement; (E) being arrested or charged with any fraudulent or felony criminal offense or any other criminal offense which reflects adversely on the Company or reflects conduct or character that the Board reasonably concludes is inconsistent with continued employment; or (F) any criminal conduct that is a "statutory disqualifying event" (as defined under federal securities laws, rules and regulations).

(2) Prior to any termination for Cause, Executive will be given five (5) business days written notice specifying the alleged Cause event and will be entitled to appear (with counsel) before the full Board to present information regarding his views on the Cause event, and after such hearing, there is at least a majority vote of the full Board to terminate him for Cause. After providing the notice in foregoing sentence, the Board may suspend Executive with full pay and benefits until a final determination pursuant to this Section 11(c) has been made.

(3) Upon termination of this Agreement for Cause, the Company shall have no further obligations or liability to Executive or his heirs, administrators or executors with respect to compensation and benefits thereafter, except for the obligation to pay Executive any earned but unpaid Base Salary, reimbursement of any and all reasonable expenses paid or incurred by Executive in connection with and related to the performance of his duties and responsibilities for the Company during the period ending on the termination date, and any accrued but unused vacation time through the termination date in accordance with Company policy. The Company shall deduct, from all payments made hereunder, all applicable taxes, including income tax, FICA and FUTA, and other appropriate deductions.

(d) Good Reason and Without Cause.

(1) At any time during the term of this Agreement, subject to the conditions set forth in Section 11(d)(2) below, Executive may terminate this Agreement and Executive's employment with the Company for "Good Reason." For purposes of this Agreement, "Good Reason" shall mean any of the following actions taken by the Company or a successor corporation or entity without Executive's consent: (A) material reduction of Executive's base compensation; (B) material reduction in Executive's title, authority, duties or responsibilities; (C) failure or refusal of a successor to the Company to materially assume the Company's obligations under this Agreement in the event of a Change of Control as defined in Section 11(f)(ii); (D) relocation of Executive's Job Site that results in an increase in Executive's one-way driving distance by more than fifty (50) miles from Executive's then-current principal residence; or (E) any other material breach by the Company of this Agreement.

(2) Executive shall not be entitled to terminate this Agreement for Good Reason unless and until he or she shall have delivered written notice to the Company within ninety (90) days of the date upon which the facts giving rise to Good Reason occurred of his intention to terminate this Agreement and his employment with the Company for Good Reason, which notice specifies in reasonable detail the circumstances claimed to provide the basis for such termination for Good Reason, the Company shall not have eliminated the circumstances constituting Good Reason within thirty (30) days of its receipt from Executive of such written notice, and Executive, in fact, terminates this Agreement and his employment with the Company for Good Reason within 120 days following the initial existence of the event triggering Good Reason.

(3) In the event that Executive terminates this Agreement and his employment with the Company for Good Reason or the Company terminates this Agreement and Executive's employment with the Company without Cause, the Company shall pay or provide to Executive (or, following his death, to Executive's heirs, administrators or executors) the Separation Payment amount. The Company shall deduct, from all payments made hereunder, all applicable taxes, including income tax, FICA and FUTA, and other appropriate deductions.

(4) Notwithstanding anything herein to the contrary, the benefits to Executive under this Agreement shall be reduced by the amount of any insurance proceeds payable to Executive, as determined by the Company, but only to the extent that such reduction would not cause adverse tax consequences under Section 409A of the Code (as defined below).

(e) Without "Good Reason" by Executive. At any time during the term of this Agreement, Executive shall be entitled to terminate this Agreement and Executive's employment with the Company without Good Reason by providing prior written notice of at least thirty (30) days to the Company. Upon termination by Executive of this Agreement or Executive's employment with the Company without Good Reason, the Company shall have no further obligations or liability to Executive or his heirs, administrators or executors with respect to compensation and benefits thereafter, except for the obligation to pay Executive any earned but unpaid Base Salary, reimbursement of any and all reasonable expenses paid or incurred by Executive in connection with and related to the performance of his duties and responsibilities for the Company during the period ending on the termination date, and any accrued but unused vacation time through the termination date in accordance with Company policy. The Company shall deduct, from all payments made hereunder, all applicable taxes, including income tax, FICA and FUTA, and other appropriate deductions.

(f) Change of Control. For purposes of this Agreement, "Change of Control" shall mean the occurrence of any one or more of the following: (i) the accumulation (if over time, in any consecutive twelve (12) month period), whether directly, indirectly, beneficially or of record, by any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Securities Exchange Act of 1934, as amended) of 50.1% or more of the shares of the outstanding common stock of the Company, whether by merger, consolidation, sale or other transfer of shares of Company common stock (other than a merger or consolidation where the stockholders of the Company prior to the merger or consolidation are the holders of a majority of the voting securities of the entity that survives such merger or consolidation), (ii) a sale of all or substantially all of the assets of the Company or (iii) during any period of twelve (12) consecutive months, the individuals who, at the beginning of such period, constitute the Board, and any new director whose election by the Board or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds (2/3) of the directors then still in office who either were directors at the beginning of the 12-month period or whose election or nomination for election was previously so approved, cease for any reason to constitute at least a majority of the Board; *provided, however*, that the following acquisitions shall not constitute a Change of Control for the purposes of this Agreement: (A) any acquisitions of Company common stock or securities convertible, exercisable or exchangeable into Company common stock directly from the Company, or (B) any acquisition of Company common stock or securities convertible, exercisable or exchangeable into Company common stock by any employee benefit plan (or related trust) sponsored by or maintained by the Company.

(g) Any termination of Executive's employment by the Company or by Executive (other than termination by reason of Executive's death) shall be communicated by written Notice of Termination to the other party of this Agreement. For purposes of this Agreement, a "Notice of Termination" shall mean a written notice which shall indicate the specific termination provision in this Agreement relied upon and shall set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of Executive's employment under the provision so indicated, provided, however, failure to provide timely notification shall not affect the employment status of Executive.

12. Confidential Information.

(a) Disclosure of Confidential Information. Executive recognizes, acknowledges and agrees that he or she has had and will continue to have access to secret and confidential information regarding the Company, its subsidiaries and their respective businesses ("Confidential Information"), including but not limited to, its products, methods, formulas, software code, patents, sources of supply, customer dealings, data, know-how, trade secrets and business plans, provided such information is not in or does not hereafter become part of the public domain, or become known to others through no fault of Executive. Executive acknowledges that such information is of great value to the Company, is the sole property of the Company, and has been and will be acquired by him in confidence. In consideration of the obligations undertaken by the Company herein, Executive will not, at any time, during or after his employment hereunder, reveal, divulge or make known to any person, any information acquired by Executive during the course of his employment, which is treated as confidential by the Company, and not otherwise in the public domain. The provisions of this Section 12 shall survive the termination of Executive's employment hereunder for a period of three (3) years. Information will not be deemed to be Confidential Information if: (i) the information was in Executive's possession or within Executive's knowledge before the Company disclosed it to Executive; (ii) the information was or became generally known to those who could take economic advantage of it; (iii) Executive obtained the information from a third party that was not known by Executive to be bound by a confidentiality agreement or other obligation of confidentiality to the Company or any other party with respect to such information; or (iv) Executive is required to disclose the information pursuant to legal process (e.g. a subpoena), provided that Executive notifies the Company promptly upon receiving or becoming aware of such legal process.

(b) Executive affirms that he or she will not rely upon the protected trade secrets or confidential or proprietary information of any prior employer(s) in providing services to the Company or its subsidiaries.

(c) In the event that Executive's employment with the Company terminates for any reason, Executive shall deliver forthwith to the Company any and all originals and copies, including those in electronic or digital formats, of Confidential Information; provided, however, Executive shall be entitled to retain (i) papers and other materials of a personal nature, including, but not limited to, photographs, correspondence, personal diaries, calendars and rolodexes, personal files and phone books, (ii) information showing his compensation or relating to reimbursement of expenses, (iii) information that he or she reasonably believes may be needed for tax purposes and (iv) copies of plans, programs and agreements relating to his employment, or termination thereof, with the Company.

(d) Notwithstanding any provision of this Agreement to the contrary, under 18 U.S.C. §1833(b), "An individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that (A) is made (i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal." Nothing in this Agreement or any other Company policy is intended to conflict with this statutory protection, and no Company director, officer, or member of management has the authority to impose any rule to the contrary.

13. Non-Competition and Non-Solicitation.

(a) Executive agrees and acknowledges that the non-competition restrictions set forth herein are reasonable and necessary to protect the Company's legitimate proprietary interests and do not impose undue hardship or burdens on Executive. Executive also acknowledges that the technology, software and related products and services developed or provided by the Company and its affiliates relating to ADA-related and other digital accessibility compliance requirements and enhancements (the "Business") are or are intended to be sold, provided, licensed and/or distributed to customers and clients primarily in and throughout the United States (the "Territory") (to the extent the Company comes to operate, either directly or through the engagement of a distributor or joint or co-venturer, or sell a significant amount of its products and services to customers located, in areas other than the United States during the Employment Period, the definition of Territory shall be automatically expanded to cover such other areas in which the Company did business at any time during the last year of Employee's employment with the Company). If that geographical scope of the Territory is deemed by a court of competent jurisdiction to be overly broad, then the Territory extends to the United States, Guam and Puerto Rico; or if that geographical scope is deemed by a court to be overly broad, then the Territory extends to the United States; or if that geographical scope is deemed by a court of competent jurisdiction to be overly broad, then the Territory extends to Pima County, Arizona and Maricopa County, Arizona. Executive further acknowledges and agrees that the Territory, scope of prohibited competition with the Business, and time duration set forth in the non-competition restrictions set forth below are reasonable and necessary to maintain the value of the Confidential Information of, and to protect the goodwill and other legitimate business interests of, the Company, its affiliates and/or its clients or customers. The provisions of this Section 13 shall survive the termination of Executive's employment hereunder.

(b) Executive hereby agrees and covenants that he or she shall not without the prior written consent of the Company, directly or indirectly, in any capacity whatsoever, including, without limitation, as an employee, employer, consultant, principal, partner, shareholder, officer, director or any other individual or representative capacity (other than (i) as a holder of less than ten (10%) percent of the outstanding securities of a Company whose shares are traded on any national securities exchange or (ii) as a limited partner, passive minority interest holder in a venture capital fund, private equity fund or similar investment entity which holds or may hold an equity or debt position in portfolio companies that are competitive with the Company's Business; provided however, that Executive shall be precluded from serving as an operating partner, general partner, manager or governing board designee with respect to such portfolio companies), or whether on Executive's own behalf or on behalf of any other person or entity or otherwise howsoever, during the Employment Period and the Separation Period and thereafter to the extent described below, within the Territory:

(1) Engage, own, manage, operate, control, be employed by, consult for, participate in, or be connected in any manner with the ownership, management, operation or control of any business in competition with the Business of the Company;

(2) Recruit, solicit or hire, or attempt to recruit, solicit or hire, any current or former employee, or independent contractor of the Company who was employed by or contracted with the Company any time during the final year of Executive's employment with the Company, to leave the employment (or independent contractor relationship) thereof, whether or not any such employee or independent contractor is party to an employment agreement, for the purpose of competing with the Business of the Company;

(3) Attempt in any manner to solicit or accept from any customer of the Company, with whom Executive had significant contact with or knowledge of during Executive's employment by the Company (whether under this Agreement or otherwise), business of the kind or competitive with the Company's Business with such customer or to persuade or attempt to persuade any such customer to cease to do business or to reduce the amount of business which such customer has customarily done or might do with the Company, or if any such customer elects to move its business to a person other than the Company, provide any services of the kind or competitive with the Business of the Company for such customer, or have any discussions regarding any such service with such customer, on behalf of such other person; or

(4) Interfere with the Company's Business or with any relationship, contractual or otherwise, between the Company and any other party, including, without limitation, any employee, customer, supplier, distributor, co-venturer or joint venturer of the Company, for the purpose of soliciting such other party to discontinue or reduce its business with the Company.

With respect to the activities described in Paragraphs (1), (2), (3) and (4) above, the restrictions of this Section 13(b) shall continue during the Employment Period and until one (1) year following the termination of this Agreement or of Executive's employment with the Company (including upon expiration of this Agreement), whichever occurs later; provided, however, that if this Agreement or Executive's employment is terminated by Executive for Good Reason or by the Company without Cause, then the restrictions of this Section 13(b) shall terminate concurrently with the termination and shall be of no further effect. In the event that any provision of this Section 13 is determined by a court of competent jurisdiction to be unenforceable, such provision shall not render the entire Section unenforceable but, to the extent possible, the court may appropriately blue pencil the Section to render such provision enforceable.

14. Inventions. All systems, inventions, discoveries, apparatus, techniques, methods, know-how, formulae or improvements made, developed or conceived by Executive during Executive's employment by the Company that (i) are directly relevant to the Company's business as then constituted, (ii) are developed as a part of the tasks and assignments that are the duties and responsibilities of Executive, and (iii) were created using substantially the Company's resources, such as time, materials and space, shall be and continue to remain the Company's exclusive property, without any added compensation or any reimbursement for expenses to Executive, and upon the conception of any and every such invention, process, discovery or improvement and without waiting to perfect or complete it, Executive promises and agrees that Executive will immediately disclose it to the Company and to no one else and thenceforth will treat it as the property and secret of the Company. Executive will also execute any instruments requested from time to time by the Company to vest in it complete title and ownership to such invention, discovery or improvement and will, at the request of the Company, do such acts and execute such instruments as the Company may require, but at the Company's expense to obtain patents, trademarks or copyrights in the United States and foreign countries, for such invention, discovery or improvement and for the purpose of vesting title thereto in the Company, all without any reimbursement for expenses (except as provided in Section 9 or otherwise) and without any additional compensation of any kind to Executive.

15. Section 409A.

The provisions of this Agreement are intended to comply with or meet an exemption from Section 409A of the Internal Revenue Code of 1986, as amended (the "Code") and any final regulations and guidance promulgated thereunder ("Section 409A") and shall be construed in a manner consistent with the requirements for avoiding taxes or penalties under Section 409A. The Company and Executive agree to work together in good faith to consider amendments to this Agreement and to take such reasonable actions which are necessary, appropriate or desirable to avoid imposition of any additional tax or income recognition prior to actual payment to Executive under Section 409A.

To the extent that Executive will be reimbursed for costs and expenses or in-kind benefits, except as otherwise permitted by Section 409A, (a) the right to reimbursement or in-kind benefits is not subject to liquidation or exchange for another benefit, (b) the amount of expenses eligible for reimbursement, or in-kind benefits, provided during any taxable year shall not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year; provided that the foregoing clause (b) shall not be violated with regard to expenses reimbursed under any arrangement covered by Section 105(b) of the Code solely because such expenses are subject to a limit related to the period the arrangement is in effect and (c) such payments shall be made on or before the last day of the taxable year following the taxable year in which you incurred the expense.

A termination of employment shall not be deemed to have occurred for purposes of any provision of this Agreement providing for the payment of any amounts or benefits upon or following a termination of employment unless such termination constitutes a "Separation from Service" within the meaning of Section 409A and, for purposes of any such provision of this Agreement references to a "termination," "termination of employment" or like terms shall mean Separation from Service.

Each installment payable hereunder shall constitute a separate payment for purposes of Treasury Regulation Section 1.409A-2(b), including Treasury Regulation Section 1.409A-2(b)(2)(iii). Each payment that is made within the terms of the "short-term deferral" rule set forth in Treasury Regulation Section 1.409A-1(b)(4) is intended to meet the "short-term deferral" rule. Each other payment is intended to be a payment upon an involuntary termination from service and payable pursuant to Treasury Regulation Section 1.409A-1(b)(9)(iii), et. seq., to the maximum extent permitted by that regulation, with any amount that is not exempt from Code Section 409A being subject to Code Section 409A.

Notwithstanding anything to the contrary in this Agreement, if Executive is a "specified employee" within the meaning of Section 409A, any payment otherwise due to Executive on or within the six (6) month period following Executive's termination will accrue during such six (6) month period and will become payable in one lump sum cash payment on the date six (6) months and one (1) day following the date of Executive's termination of employment, to the extent required to avoid any adverse tax consequences under Section 409A. Any remaining payment(s), will be payable in accordance with the payment schedule applicable to each payment or benefit. Notwithstanding anything herein to the contrary, if Executive dies following termination but prior to the six (6) month anniversary of Executive's termination date, then any payments delayed in accordance with this paragraph will be payable in a lump sum as soon as administratively practicable after the date of Executive's death and all other amounts will be payable in accordance with the payment schedule applicable to each payment or benefit, to the extent and in a manner consistent with Section 409A.

16. Miscellaneous.

(a) Executive acknowledges that the services to be rendered by him under the provisions of this Agreement are of a special, unique and extraordinary character and that it would be difficult or impossible to replace such services. Furthermore, the parties acknowledge that monetary damages alone would not be an adequate remedy for any breach by Executive of Section 12 or Section 13 of this Agreement. Accordingly, Executive agrees that any breach by Executive of Section 12 or Section 13 of this Agreement shall entitle the Company, in addition to all other legal remedies available to it, to apply to any court of competent jurisdiction to seek to enjoin such breach. The parties understand and intend that each restriction agreed to by Executive hereinabove shall be construed as separable and divisible from every other restriction, that the unenforceability of any restriction shall not limit the enforceability, in whole or in part, of any other restriction, and that one or more or all of such restrictions may be enforced in whole or in part as the circumstances warrant. In the event that any restriction in this Agreement is more restrictive than permitted by law in the jurisdiction in which the Company seeks enforcement thereof, such restriction shall be limited to the extent permitted by law. The remedy of injunctive relief herein set forth shall be in addition to, and not in lieu of, any other rights or remedies that the Company may have at law or in equity.

(b) Neither Executive nor the Company may assign or delegate any of their rights or duties under this Agreement without the express written consent of the other; provided, however, that the Company shall have the right to delegate its obligation of payment of all sums due to Executive hereunder, provided that such delegation shall not relieve the Company of any of its obligations hereunder.

(c) During the term of this Agreement, the Company (i) shall indemnify and hold harmless Executive and his heirs and representatives as, and to the extent, provided in the Company's bylaws and (ii) shall cover Executive under the Company's directors' and officers' liability insurance on the same basis as it covers other senior executive officers and directors of the Company.

(d) This Agreement constitutes and embodies the full and complete understanding and agreement of the parties with respect to Executive's employment by the Company, supersedes all prior understandings and agreements, whether oral or written, between Executive and the Company, and shall not be amended, modified or changed except by an instrument in writing executed by the party to be charged (it being understood that, pursuant to Section 7, Share Awards shall govern with respect to the subject matter thereof). The invalidity or partial invalidity of one or more provisions of this Agreement shall not invalidate any other provision of this Agreement. No waiver by either party of any provision or condition to be performed shall be deemed a waiver of similar or dissimilar provisions or conditions at the same time or any prior or subsequent time.

(e) This Agreement shall inure to the benefit of, be binding upon and enforceable against, the parties hereto and their respective successors, heirs, beneficiaries and permitted assigns.

(f) The headings contained in this Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

(g) All notices, requests, demands and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when personally delivered, sent by registered or certified mail, return receipt requested, postage prepaid, or by reputable national overnight delivery service (e.g. Federal Express) for overnight delivery to the Company at its principal executive office or to Executive at his address of record in the Company's records, or to such other address as either party may hereafter give the other party notice of in accordance with the provisions hereof. Notices shall be deemed given on the sooner of the date actually received or the third business day after deposited in the mail or one business day after deposited with an overnight delivery service for overnight delivery.

(h) This Agreement shall be governed by and construed in accordance with the internal laws of the State of Arizona without reference to principles of conflicts of laws and each of the parties hereto irrevocably consents to the exclusive jurisdiction and venue of the federal and state courts located in the County of Pima, State of Arizona.

(i) This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one of the same instrument. The parties hereto have executed this Agreement as of the date set forth above.

(j) Executive represents and warrants to the Company that he or she has the full power and authority to enter into this Agreement and to perform his obligations hereunder and that the execution and delivery of this Agreement and the performance of his obligations hereunder will not conflict with any agreement to which Executive is a party.

(k) The Company represents and warrants to Executive that it has the full power and authority to enter into this Agreement and to perform its obligations hereunder and that the execution and delivery of this Agreement and the performance of its obligations hereunder will not conflict with any agreement to which the Company is a party.

[Remainder of page intentionally left blank; signature page follows.]

IN WITNESS WHEREOF, Executive and the Company have caused this Executive Employment Agreement to be executed as of the date first above written.

THE COMPANY:

AUDIOEYE, INC.

By: /s/ Todd A. Bankofier
Name: Todd Bankofier
Title: Chief Executive Officer

EXECUTIVE:

/s/ Lonny Sternberg
Lonny Sternberg

Exhibit 10.13

AUDIOEYE, INC.

2016 INCENTIVE COMPENSATION PLAN

AUDIOEYE, INC.

2016 INCENTIVE COMPENSATION PLAN

AUDIOEYE, INC.

2016 INCENTIVE COMPENSATION PLAN

1. ***Purpose***. The purpose of this AUDIOEYE, INC. 2016 INCENTIVE COMPENSATION PLAN (the "Plan") is to assist AudioEye, Inc., a Delaware corporation (the "Company") and its Related Entities (as hereinafter defined) in attracting, motivating, retaining and rewarding high-quality executives and other employees, officers, directors, consultants and other persons who provide services to the Company or its Related Entities by enabling such persons to acquire or increase a proprietary interest in the Company in order to strengthen the mutuality of interests between such persons and the Company's stockholders, and providing such persons with annual and long term performance incentives to expend their maximum efforts in the creation of stockholder value.

2. ***Definitions***. For purposes of the Plan, the following terms shall be defined as set forth below, in addition to such terms defined in Section 1 hereof and elsewhere herein.

(a) "***Award***" means any Option, Stock Appreciation Right, Restricted Stock Award, Deferred Stock Award, Share granted as a bonus or in lieu of another Award, Dividend Equivalent, Other Stock-Based Award or Performance Award, together with any other right or interest, granted to a Participant under the Plan.

(b) "***Award Agreement***" means any written agreement, contract or other instrument or document evidencing any Award granted by the Committee hereunder.

(c) "***Beneficiary***" means the person, persons, trust or trusts that have been designated by a Participant in his or her most recent written beneficiary designation filed with the Committee to receive the benefits specified under the Plan upon such Participant's death or to which Awards or other rights are transferred if and to the extent permitted under Section 10(b) hereof. If, upon a Participant's death, there is no designated Beneficiary or surviving designated Beneficiary, then the term Beneficiary means the person, persons, trust or trusts entitled by will or the laws of descent and distribution to receive such benefits.

(d) "***Beneficial Owner***" ***and "Beneficial Ownership"*** shall have the meaning ascribed to such term in Rule 13d-3 under the Exchange Act and any successor to such Rule.

(e) "***Board***" means the Company's Board of Directors.

(f) "***Cause***" shall, with respect to any Participant, have the meaning specified in the Award Agreement. In the absence of any definition in the Award Agreement, "Cause" shall have the equivalent meaning or the same meaning as "cause" or "for cause" set forth in any employment, consulting, or other agreement for the performance of services between the Participant and the Company or a Related Entity or, in the absence of any such agreement or any such definition in such agreement, such term shall mean (i) the failure by the Participant to perform, in a reasonable manner, his or her duties as assigned by the Company or a Related Entity, (ii) any violation or breach by the Participant of his or her employment, consulting or other similar agreement with the Company or a Related Entity, if any, (iii) any violation or breach by the Participant of any non-competition, non-solicitation, non-disclosure and/or other similar agreement with the Company or a Related Entity, (iv) any act by the Participant of dishonesty or bad faith with respect to the Company or a Related Entity, (v) use of alcohol, drugs or other similar substances in a manner that adversely affects the Participant's work performance, or (vi) the commission by the Participant of any act, misdemeanor, or crime reflecting unfavorably upon the Participant or the Company or any Related Entity. The good faith determination by the Committee of whether the Participant's Continuous Service was terminated by the Company for "Cause" shall be final and binding for all purposes hereunder.

(g) "***Change in Control***" means a Change in Control as defined in Section 9(b) of the Plan.

(h) "***Code***" means the Internal Revenue Code of 1986, as amended from time to time, including regulations thereunder and successor provisions and regulations thereto.

(i) "***Committee***" means a committee designated by the Board to administer the Plan; provided, however, that if the Board fails to designate a committee or if there are no longer any members on the committee so designated by the Board, or for any other reason determined by the Board, then the Board shall serve as the Committee. While it is intended that the Committee shall consist of at least two directors, each of whom shall be (i) a "non-employee director" within the meaning of Rule 16b-3 (or any successor rule) under the Exchange Act, unless administration of the Plan by "non-employee directors" is not then required in order for exemptions under Rule 16b-3 to apply to transactions under the Plan, (ii) an "outside director" within the meaning of Section 162(m) of the Code, and (iii) "Independent," the failure of the Committee to be so comprised shall not invalidate any Award that otherwise satisfies the terms of the Plan.

(j) "***Consultant***" means any Person (other than an Employee or a Director, solely with respect to rendering services in such Person's capacity as a director) who is engaged by the Company or any Related Entity to render consulting or advisory services to the Company or such Related Entity.

(k) "***Continuous Service***" means the uninterrupted provision of services to the Company or any Related Entity in any capacity of Employee, Director, Consultant or other service provider. Continuous Service shall not be considered to be interrupted in the case of (i) any approved leave of absence, (ii) transfers among the Company, any Related Entities, or any successor entities, in any capacity of Employee, Director, Consultant or other service provider, or (iii) any change in status as long as the individual remains in the service of the Company or a Related Entity in any capacity of Employee, Director, Consultant or other service provider (except as otherwise provided in the Award Agreement). An approved leave of absence shall include sick leave, military leave, or any other authorized personal leave.

(l) "***Covered Employee"*** means the Person who, as of the end of the taxable year, either is the principal executive officer of the Company or is serving as the acting principal executive officer of the Company, and each other Person whose compensation is required to be disclosed in the Company's filings with the Securities and Exchange Commission by reason of that person being among the three highest compensated officers of the Company as of the end of a taxable year, or such other person as shall be considered a "covered employee" for purposes of Section 162(m) of the Code.

(m) "***Deferred Stock***" means a right to receive Shares, including Restricted Stock, cash measured based upon the value of Shares or a combination thereof, at the end of a specified deferral period.

(n) "***Deferred Stock Award***" means an Award of Deferred Stock granted to a Participant under Section 6(e) hereof.

(o) "***Director***" means a member of the Board or the board of directors of any Related Entity.

(p) "***Disability***" means a permanent and total disability (within the meaning of Section 22(e) of the Code), as determined by a medical doctor satisfactory to the Committee.

(q) "***Dividend Equivalent***" means a right, granted to a Participant under Section 6(g) hereof, to receive cash, Shares, other Awards or other property equal in value to dividends paid with respect to a specified number of Shares, or other periodic payments.

(r) "***Effective Date***" means the effective date of the Plan, which shall be January 5, 2016.

(s) "***Eligible Person***" means each officer, Director, Employee, Consultant and other person who provides services to the Company or any Related Entity. The foregoing notwithstanding, only Employees of the Company, or any parent corporation or subsidiary corporation of the Company (as those terms are defined in Sections 424(e) and (f) of the Code, respectively), shall be Eligible Persons for purposes of receiving any Incentive Stock Options. An Employee on leave of absence may, in the discretion of the Committee, be considered as still in the employ of the Company or a Related Entity for purposes of eligibility for participation in the Plan.

(t) "***Employee***" means any person, including an officer or Director, who is an employee of the Company or any Related Entity. The payment of a director's fee by the Company or a Related Entity shall not be sufficient to constitute "employment" by the Company.

(u) "***Exchange Act***" means the Securities Exchange Act of 1934, as amended from time to time, including rules thereunder and successor provisions and rules thereto.

(v) "***Fair Market Value***" means the fair market value of Shares, Awards or other property as determined by the Committee, or under procedures established by the Committee. Unless otherwise determined by the Committee, the Fair Market Value of a Share as of any given date shall be the closing sale price per Share reported on a consolidated basis for stock listed on the principal stock exchange or market on which Shares are traded on the date immediately preceding the date as of which such value is being determined (or as of such later measurement date as determined by the Committee on the date the Award is authorized by the Committee), or, if there is no sale on that date, then on the last previous day on which a sale was reported.

(w) "***Good Reason***" shall, with respect to any Participant, have the meaning specified in the Award Agreement. In the absence of any definition in the Award Agreement, "Good Reason" shall have the equivalent meaning or the same meaning as "good reason" or "for good reason" set forth in any employment, consulting or other agreement for the performance of services between the Participant and the Company or a Related Entity or, in the absence of any such agreement or any such definition in such agreement, such term shall mean (i) the assignment to the Participant of any duties inconsistent in any material respect with the Participant's duties or responsibilities as assigned by the Company or a Related Entity, or any other action by the Company or a Related Entity which results in a material diminution in such duties or responsibilities, excluding for this purpose an isolated, insubstantial and inadvertent action not taken in bad faith and which is remedied by the Company or a Related Entity promptly after receipt of notice thereof given by the Participant; (ii) any material failure by the Company or a Related Entity to comply with its obligations to the Participant as agreed upon, other than an isolated, insubstantial and inadvertent failure not occurring in bad faith and which is remedied by the Company or a Related Entity promptly after receipt of notice thereof given by the Participant; or (iii) the Company's or Related Entity's requiring the Participant to be based at any office or location outside of fifty (50) miles from the location of employment or service as of the date of Award, except for travel reasonably required in the performance of the Participant's responsibilities.

(x) "***Incentive Stock Option***" means any Option intended to be designated as an incentive stock option within the meaning of Section 422 of the Code or any successor provision thereto.

(y) "***Independent***," when referring to either the Board or members of the Committee, shall have the same meaning as used in the rules of the Listing Market.

(z) "***Incumbent Board***" means the Incumbent Board as defined in Section 9(b)(ii) hereof.

(aa) ***"Listing Market"*** means the OTC Bulletin Board or any other national securities exchange on which any securities of the Company are listed for trading, and if not listed for trading, by the rules of the Nasdaq Market.

(bb) "***Non-Qualified Stock Option***" means any option that is not an Incentive Stock Option.

(cc) "***Option***" means a right granted to a Participant under Section 6(b) hereof, to purchase Shares or other Awards at a specified price during specified time periods.

(dd) "***Optionee***" means a person to whom an Option is granted under this Plan or any person who succeeds to the rights of such person under this Plan.

(ee) "***Other Stock-Based Awards***" means Awards granted to a Participant under Section 6(i) hereof.

(ff) "***Participant***" means a person who has been granted an Award under the Plan which remains outstanding, including a person who is no longer an Eligible Person.

(gg) "***Performance Award***" means any Award of Performance Shares or Performance Units granted pursuant to Section 6(h) hereof.

(hh) "***Performance Period***" means that period established by the Committee at the time any Performance Award is granted or at any time thereafter during which any performance goals specified by the Committee with respect to such Award are to be measured.

(ii) "***Performance Share***" means any grant pursuant to Section 6(h) hereof of a unit valued by reference to a designated number of Shares, which value may be paid to the Participant by delivery of such property as the Committee shall determine, including cash, Shares, other property, or any combination thereof, upon achievement of such performance goals during the Performance Period as the Committee shall establish at the time of such grant or thereafter.

(jj) "***Performance Unit***" means any grant pursuant to Section 6(h) hereof of a unit valued by reference to a designated amount of property (including cash) other than Shares, which value may be paid to the Participant by delivery of such property as the Committee shall determine, including cash, Shares, other property, or any combination thereof, upon achievement of such performance goals during the Performance Period as the Committee shall establish at the time of such grant or thereafter.

(kk) "***Person***" shall have the meaning ascribed to such term in Section 3(a)(9) of the Exchange Act and used in Sections 13(d) and 14(d) thereof, and shall include a "group" as defined in Section 13(d) thereof.

(ll) "***Related Entity***" means any Subsidiary, and any business, corporation, partnership, limited liability company or other entity designated by the Board, in which the Company or a Subsidiary holds a substantial ownership interest, directly or indirectly.

(mm) ***"Restriction Period"*** means the period of time specified by the Committee that Restricted Stock Awards shall be subject to such restrictions on transferability, risk of forfeiture and other restrictions, if any, as the Committee may impose.

(nn) "***Restricted Stock***" means any Share issued with the restriction that the holder may not sell, transfer, pledge or assign such Share and with such risks of forfeiture and other restrictions as the Committee, in its sole discretion, may impose (including any restriction on the right to vote such Share and the right to receive any dividends), which restrictions may lapse separately or in combination at such time or times, in installments or otherwise, as the Committee may deem appropriate.

(oo) "***Restricted Stock Award***" means an Award granted to a Participant under Section 6(d) hereof.

(pp) "***Rule 16b-3***" means Rule 16b-3, as from time to time in effect and applicable to the Plan and Participants, promulgated by the Securities and Exchange Commission under Section 16 of the Exchange Act.

(qq) "***Shares***" means the shares of common stock of the Company, par value $.00001 per share, and such other securities as may be substituted (or resubstituted) for Shares pursuant to Section 10(c) hereof.

(rr) "***Stock Appreciation Right***" means a right granted to a Participant under Section 6(c) hereof.

(ss) "***Subsidiary***" means any corporation or other entity in which the Company has a direct or indirect ownership interest of 50% or more of the total combined voting power of the then outstanding securities or interests of such corporation or other entity entitled to vote generally in the election of directors or in which the Company has the right to receive 50% or more of the distribution of profits or 50% or more of the assets on liquidation or dissolution.

(tt) "***Substitute Awards***" means Awards granted or Shares issued by the Company in assumption of, or in substitution or exchange for, Awards previously granted, or the right or obligation to make future Awards, by a company (i) acquired by the Company or any Related Entity, (ii) which becomes a Related Entity after the date hereof, or (iii) with which the Company or any Related Entity combines.

3. ***Administration.***

(a) ***Authority of the Committee***. The Plan shall be administered by the Committee except to the extent (and subject to the limitations imposed by Section 3(b) hereof) the Board elects to administer the Plan, in which case the Plan shall be administered by only those members of the Board who are Independent members of the Board, in which case references herein to the "Committee" shall be deemed to include references to the Independent members of the Board. The Committee shall have full and final authority, subject to and consistent with the provisions of the Plan, to select Eligible Persons to become Participants, grant Awards, determine the type, number and other terms and conditions of, and all other matters relating to, Awards, prescribe Award Agreements (which need not be identical for each Participant) and rules and regulations for the administration of the Plan, construe and interpret the Plan and Award Agreements and correct defects, supply omissions or reconcile inconsistencies therein, and to make all other decisions and determinations as the Committee may deem necessary or advisable for the administration of the Plan. In exercising any discretion granted to the Committee under the Plan or pursuant to any Award, the Committee shall not be required to follow past practices, act in a manner consistent with past practices, or treat any Eligible Person or Participant in a manner consistent with the treatment of any other Eligible Persons or Participants.

(b) ***Manner of Exercise of Committee Authority.*** The Committee, and not the Board, shall exercise sole and exclusive discretion (i) on any matter relating to a Participant then subject to Section 16 of the Exchange Act with respect to the Company to the extent necessary in order that transactions by such Participant shall be exempt under Rule 16b-3 under the Exchange Act, (ii) with respect to any Award that is intended to qualify as "performance-based compensation" under Section 162(m), to the extent necessary in order for such Award to so qualify; and (iii) with respect to any Award to an Independent Director. Any action of the Committee shall be final, conclusive and binding on all persons, including the Company, its Related Entities, Eligible Persons, Participants, Beneficiaries, transferees under Section 10(b) hereof or other persons claiming rights from or through a Participant, and stockholders. The express grant of any specific power to the Committee, and the taking of any action by the Committee, shall not be construed as limiting any power or authority of the Committee. The Committee may delegate to officers or managers of the Company or any Related Entity, or committees thereof, the authority, subject to such terms and limitations as the Committee shall determine, to perform such functions, including administrative functions as the Committee may determine to the extent that such delegation will not result in the loss of an exemption under Rule 16b-3(d)(1) for Awards granted to Participants subject to Section 16 of the Exchange Act in respect of the Company and will not cause Awards intended to qualify as "performance-based compensation" under Code Section 162(m) to fail to so qualify. The Committee may appoint agents to assist it in administering the Plan.

(c) ***Limitation of Liability***. The Committee and the Board, and each member thereof, shall be entitled to, in good faith, rely or act upon any report or other information furnished to him or her by any officer or Employee, the Company's independent auditors, Consultants or any other agents assisting in the administration of the Plan. Members of the Committee and the Board, and any officer or Employee acting at the direction or on behalf of the Committee or the Board, shall not be personally liable for any action or determination taken or made in good faith with respect to the Plan, and shall, to the extent permitted by law, be fully indemnified and protected by the Company with respect to any such action or determination.

4. ***Shares Subject to Plan*.**

(a) ***Limitation on Overall Number of Shares Available for Delivery Under Plan***. Subject to adjustment as provided in Section 10(c) hereof, the total number of Shares reserved and available for delivery under the Plan shall be ten million (10,000,000)[(1)(2)]. Any Shares delivered under the Plan may consist, in whole or in part, of authorized and unissued shares or treasury shares.

(b) ***Application of Limitation to Grants of Awards.*** No Award may be granted if the number of Shares to be delivered in connection with such an Award exceeds the number of Shares remaining available for delivery under the Plan, minus the number of Shares deliverable in settlement of or relating to then outstanding Awards. The Committee may adopt reasonable counting procedures to ensure appropriate counting, avoid double counting (as, for example, in the case of tandem or substitute awards) and make adjustments if the number of Shares actually delivered differs from the number of Shares previously counted in connection with an Award.

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(1) As a result of the Company's 25-for-1 reverse stock split on August 1, 2018 (the "2018 Reverse Stock Split"), this number was reduced to 400,000.

(2) On July 7, 2016, the Company's Board of Directors increased the number of Shares reserved and available for delivery under the Plan by an additional five million (5,000,000), which number was reduced to 200,000 as a result of the 2018 Reverse Stock Split. Following the 2018 Reverse Stock Split, the total number of shares authorized under the 2016 Plan was 600,000.

(c) ***Availability of Shares Not Delivered under Awards and Adjustments to Limits.***

(i) If any Awards are forfeited, expire or otherwise terminate without issuance of such Shares, or any Award is settled for cash or otherwise does not result in the issuance of all or a portion of the Shares subject to such Award, the Shares to which those Awards were subject, shall, to the extent of such forfeiture, expiration, termination, cash settlement or non-issuance, again be available for delivery with respect to Awards under the Plan, subject to Section 4(c)(iv) below.

(ii) In the event that any Option or other Award granted hereunder is exercised through the tendering of Shares (either actually or by attestation) or by the withholding of Shares by the Company, or withholding tax liabilities arising from such option or other award are satisfied by the tendering of Shares (either actually or by attestation) or by the withholding of Shares by the Company, then only the number of Shares issued net of the Shares tendered or withheld shall be counted for purposes of determining the maximum number of Shares available for grant under the Plan.

(iii) Substitute Awards shall not reduce the Shares authorized for delivery under the Plan or authorized for delivery to a Participant in any period. Additionally, in the event that a company acquired by the Company or any Related Entity or with which the Company or any Related Entity combines has shares available under a pre-existing plan approved by its stockholders, the shares available for delivery pursuant to the terms of such pre-existing plan (as adjusted, to the extent appropriate, using the exchange ratio or other adjustment or valuation ratio or formula used in such acquisition or combination to determine the consideration payable to the holders of common stock of the entities party to such acquisition or combination) may be used for Awards under the Plan and shall not reduce the Shares authorized for delivery under the Plan; if and to the extent that the use of such Shares would not require approval of the Company's stockholders under the rules of the Listing Market.

(iv) Any Share that again becomes available for delivery pursuant to this Section 4(c) shall be added back as one (1) Share.

(v) Notwithstanding anything in this Section 4(c) to the contrary but subject to adjustment as provided in Section 10(c) hereof, the maximum aggregate number of Shares that may be delivered under the Plan as a result of the exercise of the Incentive Stock Options shall be ten million (10,000,000)[(3)] Shares.

5. ***Eligibility; Per-Person Award Limitations***. Awards may be granted under the Plan only to Eligible Persons. Subject to adjustment as provided in Section 10(c), in any fiscal year of the Company during any part of which the Plan is in effect, no Participant may be granted (i) Options or Stock Appreciation Rights with respect to more than 500,000[(4)] Shares or (ii) Restricted Stock, Deferred Stock, Performance Shares and/or Other Stock-Based Awards with respect to more than 500,000[(5)] Shares. In addition, the maximum dollar value payable to any one Participant with respect to Performance Units is (x) $250,000 with respect to any 12 month Performance Period and (y) with respect to any Performance Period that is more than 12 months, $500,000.

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(3) As a result of the Company's 2018 Reverse Stock Split, this number was reduced to 400,000.

(4) As a result of the Company's 2018 Reverse Stock Split, this number was reduced to 20,000.

(5) As a result of the Company's 2018 Reverse Stock Split, this number was reduced to 20,000.

6. ***Specific Terms of Awards.***

(a) ***General***. Awards may be granted on the terms and conditions set forth in this Section 6. In addition, the Committee may impose on any Award or the exercise thereof, at the date of grant or thereafter (subject to Section 10(e)), such additional terms and conditions, not inconsistent with the provisions of the Plan, as the Committee shall determine, including terms requiring forfeiture of Awards in the event of termination of the Participant's Continuous Service and terms permitting a Participant to make elections relating to his or her Award. Except as otherwise expressly provided herein, the Committee shall retain full power and discretion to accelerate, waive or modify, at any time, any term or condition of an Award that is not mandatory under the Plan. Except in cases in which the Committee is authorized to require other forms of consideration under the Plan, or to the extent other forms of consideration must be paid to satisfy the requirements of Delaware law, no consideration other than services may be required for the grant (as opposed to the exercise) of any Award.

(b) ***Options***. The Committee is authorized to grant Options to any Eligible Person on the following terms and conditions:

(i) ***Exercise Price***. Other than in connection with Substitute Awards, the exercise price per Share purchasable under an Option shall be determined by the Committee, provided that such exercise price shall not be less than 100% of the Fair Market Value of a Share on the date of grant of the Option and shall not, in any event, be less than the par value of a Share on the date of grant of the Option. If an Employee owns or is deemed to own (by reason of the attribution rules applicable under Section 424(d) of the Code) more than 10% of the combined voting power of all classes of stock of the Company (or any parent corporation or subsidiary corporation of the Company, as those terms are defined in Sections 424(e) and (f) of the Code, respectively) and an Incentive Stock Option is granted to such Employee, the exercise price of such Incentive Stock Option (to the extent required by the Code at the time of grant) shall be no less than 110% of the Fair Market Value of a Share on the date such Incentive Stock Option is granted.

(ii) ***Time and Method of Exercise***. The Committee shall determine the time or times at which or the circumstances under which an Option may be exercised in whole or in part (including based on achievement of performance goals and/or future service requirements), the time or times at which Options shall cease to be or become exercisable following termination of Continuous Service or upon other conditions, the methods by which the exercise price may be paid or deemed to be paid (including in the discretion of the Committee a cashless exercise procedure), the form of such payment, including, without limitation, cash, Shares (including without limitation the withholding of Shares otherwise deliverable pursuant to the Award), other Awards or awards granted under other plans of the Company or a Related Entity, or other property (including notes or other contractual obligations of Participants to make payment on a deferred basis provided that such deferred payments are not in violation of Section 13(k) of the Exchange Act, or any rule or regulation adopted thereunder or any other applicable law), and the methods by or forms in which Shares will be delivered or deemed to be delivered to Participants.

(iii) ***Incentive Stock Options***. The terms of any Incentive Stock Option granted under the Plan shall comply in all respects with the provisions of Section 422 of the Code. Anything in the Plan to the contrary notwithstanding, no term of the Plan relating to Incentive Stock Options (including any Stock Appreciation Right issued in tandem therewith) shall be interpreted, amended or altered, nor shall any discretion or authority granted under the Plan be exercised, so as to disqualify either the Plan or any Incentive Stock Option under Section 422 of the Code, unless the Participant has first requested, or consents to, the change that will result in such disqualification. Thus, if and to the extent required to comply with Section 422 of the Code, Options granted as Incentive Stock Options shall be subject to the following special terms and conditions:

(A) the Option shall not be exercisable for more than ten years after the date such Incentive Stock Option is granted; provided, however, that if a Participant owns or is deemed to own (by reason of the attribution rules of Section 424(d) of the Code) more than 10% of the combined voting power of all classes of stock of the Company (or any parent corporation or subsidiary corporation of the Company, as those terms are defined in Sections 424(e) and (f) of the Code, respectively) and the Incentive Stock Option is granted to such Participant, the term of the Incentive Stock Option shall be (to the extent required by the Code at the time of the grant) for no more than five years from the date of grant; and

(B) The aggregate Fair Market Value (determined as of the date the Incentive Stock Option is granted) of the Shares with respect to which Incentive Stock Options granted under the Plan and all other option plans of the Company (and any parent corporation or subsidiary corporation of the Company, as those terms are defined in Sections 424(e) and (f) of the Code, respectively) that become exercisable for the first time by the Participant during any calendar year shall not (to the extent required by the Code at the time of the grant) exceed $100,000.

(c) ***Stock Appreciation Rights***. The Committee may grant Stock Appreciation Rights to any Eligible Person in conjunction with all or part of any Option granted under the Plan or at any subsequent time during the term of such Option (a "Tandem Stock Appreciation Right"), or without regard to any Option (a "Freestanding Stock Appreciation Right"), in each case upon such terms and conditions as the Committee may establish in its sole discretion, not inconsistent with the provisions of the Plan, including the following:

(i) ***Right to Payment***. A Stock Appreciation Right shall confer on the Participant to whom it is granted a right to receive, upon exercise thereof, the excess of (A) the Fair Market Value of one Share on the date of exercise over (B) the grant price of the Stock Appreciation Right as determined by the Committee. The grant price of a Stock Appreciation Right shall not be less than 100% of the Fair Market Value of a Share on the date of grant, in the case of a Freestanding Stock Appreciation Right, or less than the associated Option exercise price, in the case of a Tandem Stock Appreciation Right.

(ii) ***Other Terms***. The Committee shall determine at the date of grant or thereafter, the time or times at which and the circumstances under which a Stock Appreciation Right may be exercised in whole or in part (including based on achievement of performance goals and/or future service requirements), the time or times at which Stock Appreciation Rights shall cease to be or become exercisable following termination of Continuous Service or upon other conditions, the method of exercise, method of settlement, form of consideration payable in settlement, method by or forms in which Shares will be delivered or deemed to be delivered to Participants, whether or not a Stock Appreciation Right shall be in tandem or in combination with any other Award, and any other terms and conditions of any Stock Appreciation Right.

(iii) ***Tandem Stock Appreciation Rights***. Any Tandem Stock Appreciation Right may be granted at the same time as the related Option is granted or, for Options that are Non-Qualified Stock Options, at any time thereafter before exercise or expiration of such Option. Any Tandem Stock Appreciation Right related to an Option may be exercised only when the related Option would be exercisable and the Fair Market Value of the Shares subject to the related Option exceeds the exercise price at which Shares can be acquired pursuant to the Option. In addition, if a Tandem Stock Appreciation Right exists with respect to less than the full number of Shares covered by a related Option, then an exercise or termination of such Option shall not reduce the number of Shares to which the Tandem Stock Appreciation Right applies until the number of Shares then exercisable under such Option equals the number of Shares to which the Tandem Stock Appreciation Right applies. Any Option related to a Tandem Stock Appreciation Right shall no longer be exercisable to the extent the Tandem Stock Appreciation Right has been exercised, and any Tandem Stock Appreciation Right shall no longer be exercisable to the extent the related Option has been exercised.

(d) ***Restricted Stock Awards***. The Committee is authorized to grant Restricted Stock Awards to any Eligible Person on the following terms and conditions:

(i) ***Grant and Restrictions***. Restricted Stock Awards shall be subject to such restrictions on transferability, risk of forfeiture and other restrictions, if any, as the Committee may impose, or as otherwise provided in this Plan during the Restriction Period. The terms of any Restricted Stock Award granted under the Plan shall be set forth in a written Award Agreement which shall contain provisions determined by the Committee and not inconsistent with the Plan. The restrictions may lapse separately or in combination at such times, under such circumstances (including based on achievement of performance goals and/or future service requirements), in such installments or otherwise, as the Committee may determine at the date of grant or thereafter. Except to the extent restricted under the terms of the Plan and any Award Agreement relating to a Restricted Stock Award, a Participant granted Restricted Stock shall have all of the rights of a stockholder, including the right to vote the Restricted Stock and the right to receive dividends thereon (subject to any mandatory reinvestment or other requirement imposed by the Committee). During the period that the Restriction Stock Award is subject to a risk of forfeiture, subject to Section 10(b) below and except as otherwise provided in the Award Agreement, the Restricted Stock may not be sold, transferred, pledged, hypothecated, margined or otherwise encumbered by the Participant.

(ii) ***Forfeiture***. Except as otherwise determined by the Committee, upon termination of a Participant's Continuous Service during the applicable Restriction Period, the Participant's Restricted Stock that is at that time subject to a risk of forfeiture that has not lapsed or otherwise been satisfied shall be forfeited and reacquired by the Company; provided that, subject to the limitations set forth in Section 6(j)(ii) hereof, the Committee may provide, by rule or regulation or in any Award Agreement, or may determine in any individual case, that forfeiture conditions relating to Restricted Stock Awards shall be waived in whole or in part in the event of terminations resulting from specified causes, and the Committee may in other cases waive in whole or in part the forfeiture of Restricted Stock.

(iii) ***Certificates for Stock***. Restricted Stock granted under the Plan may be evidenced in such manner as the Committee shall determine. If certificates representing Restricted Stock are registered in the name of the Participant, the Committee may require that such certificates bear an appropriate legend referring to the terms, conditions and restrictions applicable to such Restricted Stock, that the Company retain physical possession of the certificates, and that the Participant deliver a stock power to the Company, endorsed in blank, relating to the Restricted Stock.

(iv) ***Dividends and Splits***. As a condition to the grant of a Restricted Stock Award, the Committee may require or permit a Participant to elect that any cash dividends paid on a Share of Restricted Stock be automatically reinvested in additional Shares of Restricted Stock or applied to the purchase of additional Awards under the Plan. Unless otherwise determined by the Committee, Shares distributed in connection with a stock split or stock dividend, and other property distributed as a dividend, shall be subject to restrictions and a risk of forfeiture to the same extent as the Restricted Stock with respect to which such Shares or other property have been distributed.

(e) ***Deferred Stock Award***. The Committee is authorized to grant Deferred Stock Awards to any Eligible Person on the following terms and conditions:

(i) ***Award and Restrictions***. Satisfaction of a Deferred Stock Award shall occur upon expiration of the deferral period specified for such Deferred Stock Award by the Committee (or, if permitted by the Committee, as elected by the Participant). In addition, a Deferred Stock Award shall be subject to such restrictions (which may include a risk of forfeiture) as the Committee may impose, if any, which restrictions may lapse at the expiration of the deferral period or at earlier specified times (including based on achievement of performance goals and/or future service requirements), separately or in combination, in installments or otherwise, as the Committee may determine. A Deferred Stock Award may be satisfied by delivery of Shares, cash equal to the Fair Market Value of the specified number of Shares covered by the Deferred Stock, or a combination thereof, as determined by the Committee at the date of grant or thereafter. Prior to satisfaction of a Deferred Stock Award, a Deferred Stock Award carries no voting or dividend or other rights associated with Share ownership.

(ii) ***Forfeiture***. Except as otherwise determined by the Committee, upon termination of a Participant's Continuous Service during the applicable deferral period or portion thereof to which forfeiture conditions apply (as provided in the Award Agreement evidencing the Deferred Stock Award), the Participant's Deferred Stock Award that is at that time subject to a risk of forfeiture that has not lapsed or otherwise been satisfied shall be forfeited; provided that, subject to the limitations set forth in Section 6(j)(ii) hereof, the Committee may provide, by rule or regulation or in any Award Agreement, or may determine in any individual case, that forfeiture conditions relating to a Deferred Stock Award shall be waived in whole or in part in the event of terminations resulting from specified causes, and the Committee may in other cases waive in whole or in part the forfeiture of any Deferred Stock Award.

(iii) ***Dividend Equivalents***. Unless otherwise determined by the Committee at the date of grant, any Dividend Equivalents that are granted with respect to any Deferred Stock Award shall be either (A) paid with respect to such Deferred Stock Award at the dividend payment date in cash or in Shares of unrestricted stock having a Fair Market Value equal to the amount of such dividends, or (B) deferred with respect to such Deferred Stock Award and the amount or value thereof automatically deemed reinvested in additional Deferred Stock, other Awards or other investment vehicles, as the Committee shall determine or permit the Participant to elect. The applicable Award Agreement shall specify whether any Dividend Equivalents shall be paid at the dividend payment date, deferred or deferred at the election of the Participant. If the Participant may elect to defer the Dividend Equivalents, such election shall be made within 30 days after the grant date of the Deferred Stock Award, but in no event later than 12 months before the first date on which any portion of such Deferred Stock Award vests.

(f) ***Bonus Stock and Awards in Lieu of Obligations***. The Committee is authorized to grant Shares to any Eligible Persons as a bonus, or to grant Shares or other Awards in lieu of obligations to pay cash or deliver other property under the Plan or under other plans or compensatory arrangements, provided that, in the case of Eligible Persons subject to Section 16 of the Exchange Act, the amount of such grants remains within the discretion of the Committee to the extent necessary to ensure that acquisitions of Shares or other Awards are exempt from liability under Section 16(b) of the Exchange Act. Shares or Awards granted hereunder shall be subject to such other terms as shall be determined by the Committee.

(g) ***Dividend Equivalents***. The Committee is authorized to grant Dividend Equivalents to any Eligible Person entitling the Eligible Person to receive cash, Shares, other Awards, or other property equal in value to the dividends paid with respect to a specified number of Shares, or other periodic payments. Dividend Equivalents may be awarded on a free-standing basis or in connection with another Award. The Committee may provide that Dividend Equivalents shall be paid or distributed when accrued or shall be deemed to have been reinvested in additional Shares, Awards, or other investment vehicles, and subject to such restrictions on transferability and risks of forfeiture, as the Committee may specify. Any such determination by the Committee shall be made at the grant date of the applicable Award.

(h) ***Performance Awards***. The Committee is authorized to grant Performance Awards to any Eligible Person payable in cash, Shares, or other Awards, on terms and conditions established by the Committee, subject to the provisions of Section 8 if and to the extent that the Committee shall, in its sole discretion, determine that an Award shall be subject to those provisions. The performance criteria to be achieved during any Performance Period and the length of the Performance Period shall be determined by the Committee upon the grant of each Performance Award; provided, however, that a Performance Period shall not be shorter than twelve (12) months nor longer than five (5) years. Except as provided in Section 9 or as may be provided in an Award Agreement, Performance Awards will be distributed only after the end of the relevant Performance Period. The performance goals to be achieved for each Performance Period shall be conclusively determined by the Committee and may be based upon the criteria set forth in Section 8(b), or in the case of an Award that the Committee determines shall not be subject to Section 8 hereof, any other criteria that the Committee, in its sole discretion, shall determine should be used for that purpose. The amount of the Award to be distributed shall be conclusively determined by the Committee. Performance Awards may be paid in a lump sum or in installments following the close of the Performance Period or, in accordance with procedures established by the Committee, on a deferred basis.

(i) ***Other Stock-Based Awards***. The Committee is authorized, subject to limitations under applicable law, to grant to any Eligible Person such other Awards that may be denominated or payable in, valued in whole or in part by reference to, or otherwise based on, or related to, Shares, as deemed by the Committee to be consistent with the purposes of the Plan. Other Stock-Based Awards may be granted to Participants either alone or in addition to other Awards granted under the Plan, and such Other Stock-Based Awards shall also be available as a form of payment in the settlement of other Awards granted under the Plan. The Committee shall determine the terms and conditions of such Awards. Shares delivered pursuant to an Award in the nature of a purchase right granted under this Section 6(i) shall be purchased for such consideration, (including without limitation loans from the Company or a Related Entity provided that such loans are not in violation of Section 13(k) of the Exchange Act, or any rule or regulation adopted thereunder or any other applicable law) paid for at such times, by such methods, and in such forms, including, without limitation, cash, Shares, other Awards or other property, as the Committee shall determine.

7. ***Certain Provisions Applicable to Awards.***

(a) ***Stand-Alone, Additional, Tandem, and Substitute Awards***. Awards granted under the Plan may, in the discretion of the Committee, be granted either alone or in addition to, in tandem with, or in substitution or exchange for, any other Award or any award granted under another plan of the Company, any Related Entity, or any business entity to be acquired by the Company or a Related Entity, or any other right of a Participant to receive payment from the Company or any Related Entity. Such additional, tandem, and substitute or exchange Awards may be granted at any time. If an Award is granted in substitution or exchange for another Award or award, the Committee shall require the surrender of such other Award or award in consideration for the grant of the new Award. In addition, Awards may be granted in lieu of cash compensation, including in lieu of cash amounts payable under other plans of the Company or any Related Entity, in which the value of Shares subject to the Award is equivalent in value to the cash compensation (for example, Deferred Stock or Restricted Stock), or in which the exercise price, grant price or purchase price of the Award in the nature of a right that may be exercised is equal to the Fair Market Value of the underlying Shares minus the value of the cash compensation surrendered (for example, Options or Stock Appreciation Right granted with an exercise price or grant price "discounted" by the amount of the cash compensation surrendered), provided that any such determination to grant an Award in lieu of cash compensation must be made in compliance with Section 409A of the Code.

(b) ***Term of Awards***. The term of each Award shall be for such period as may be determined by the Committee; provided that in no event shall the term of any Option or Stock Appreciation Right exceed a period of ten years (or in the case of an Incentive Stock Option such shorter term as may be required under Section 422 of the Code).

(c) ***Form and Timing of Payment Under Awards; Deferrals***. Subject to the terms of the Plan and any applicable Award Agreement, payments to be made by the Company or a Related Entity upon the exercise of an Option or other Award or settlement of an Award may be made in such forms as the Committee shall determine, including, without limitation, cash, Shares, other Awards or other property, and may be made in a single payment or transfer, in installments, or on a deferred basis, provided that any determination to pay in installments or on a deferred basis shall be made by the Committee at the date of grant. Any installment or deferral provided for in the preceding sentence shall, however, be subject to the Company's compliance with applicable law and all applicable rules of the Listing Market, and in a manner intended to be exempt from or otherwise satisfy the requirements of Section 409A of the Code. Subject to Section 7(e) hereof, the settlement of any Award may be accelerated, and cash paid in lieu of Shares in connection with such settlement, in the sole discretion of the Committee or upon occurrence of one or more specified events (in addition to a Change in Control). Any such settlement shall be at a value determined by the Committee in its sole discretion, which, without limitation, may in the case of an Option or Stock Appreciation Right be limited to the amount if any by which the Fair Market Value of a Share on the settlement date exceeds the exercise or grant price. Installment or deferred payments may be required by the Committee (subject to Section 7(e) of the Plan, including the consent provisions thereof in the case of any deferral of an outstanding Award not provided for in the original Award Agreement) or permitted at the election of the Participant on terms and conditions established by the Committee. The Committee may, without limitation, make provision for the payment or crediting of a reasonable interest rate on installment or deferred payments or the grant or crediting of Dividend Equivalents or other amounts in respect of installment or deferred payments denominated in Shares.

(d) ***Exemptions from Section 16(b) Liability.*** It is the intent of the Company that the grant of any Awards to or other transaction by a Participant who is subject to Section 16 of the Exchange Act shall be exempt from Section 16 pursuant to an applicable exemption (except for transactions acknowledged in writing to be non-exempt by such Participant). Accordingly, if any provision of this Plan or any Award Agreement does not comply with the requirements of Rule 16b-3 then applicable to any such transaction, such provision shall be construed or deemed amended to the extent necessary to conform to the applicable requirements of Rule 16b-3 so that such Participant shall avoid liability under Section 16(b).

(e) ***Code Section 409A***.

(i) The Award Agreement for any Award that the Committee reasonably determines to constitute a Section 409A Plan, and the provisions of the Plan applicable to that Award, shall be construed in a manner consistent with the applicable requirements of Section 409A, and the Committee, in its sole discretion and without the consent of any Participant, may amend any Award Agreement (and the provisions of the Plan applicable thereto) if and to the extent that the Committee determines that such amendment is necessary or appropriate to comply with the requirements of Section 409A of the Code.

(ii) If any Award constitutes a "nonqualified deferred compensation plan" under Section 409A of the Code (a "Section 409A Plan"), then the Award shall be subject to the following additional requirements, if and to the extent required to comply with Section 409A of the Code:

(A) Payments under the Section 409A Plan may not be made earlier than the first to occur of (u) the Participant's "separation from service," (v) the date the Participant becomes "disabled," (w) the Participant's death, (x) a "specified time (or pursuant to a fixed schedule)" specified in the Award Agreement at the date of the deferral of such compensation, (y) a "change in the ownership or effective control of the corporation, or in the ownership of a substantial portion of the assets" of the Company, or (z) the occurrence of an "unforeseeble emergency;"

(B) The time or schedule for any payment of the deferred compensation may not be accelerated, except to the extent provided in applicable Treasury Regulations or other applicable guidance issued by the Internal Revenue Service;

(C) Any elections with respect to the deferral of such compensation or the time and form of distribution of such deferred compensation shall comply with the requirements of Section 409A(a)(4) of the Code; and

(D) In the case of any Participant who is "specified employee," a distribution on account of a "separation from service" may not be made before the date which is six months after the date of the Participant's "separation from service" (or, if earlier, the date of the Participant's death).

For purposes of the foregoing, the terms in quotations shall have the same meanings as those terms have for purposes of Section 409A of the Code, and the limitations set forth herein shall be applied in such manner (and only to the extent) as shall be necessary to comply with any requirements of Section 409A of the Code that are applicable to the Award. The Company does not make any representation to the Participant that any Awards awarded under this Plan will be exempt from, or satisfy, the requirements of Section 409A, and the Company shall have no liability or other obligation to indemnify or hold harmless any Participant or Beneficiary for any tax, additional tax, interest or penalties that any Participant or Beneficiary may incur in the event that any provision of this Plan, any Award Agreement, or any amendment or modification thereof, or any other action taken with respect thereto, is deemed to violate any of the requirements of Section 409A.

(iii) Notwithstanding the foregoing, the Company does not make any representation to any Participant or Beneficiary that any Awards made pursuant to this Plan are exempt from, or satisfy, the requirements of Section 409A, and the Company shall have no liability or other obligation to indemnify or hold harmless the Participant or any Beneficiary for any tax, additional tax, interest or penalties that the Participant or any Beneficiary may incur in the event that any provision of this Plan, or any Award Agreement, or any amendment or modification thereof, or any other action taken with respect thereto, is deemed to violate any of the requirements of Section 409A.

8. ***Code Section 162(m) Provisions.***

(a) ***Covered Employees.*** Unless otherwise specified by the Committee, the provisions of this Section 8 shall be applicable to any Performance Award granted to an Eligible Person who is, or is likely to be, as of the end of the tax year in which the Company would claim a tax deduction in connection with such Award, a Covered Employee.

(b) ***Performance Criteria***. If a Performance Award is subject to this Section 8, then the payment or distribution thereof or the lapsing of restrictions thereon and the distribution of cash, Shares or other property pursuant thereto, as applicable, shall be contingent upon achievement of one or more objective performance goals. Performance goals shall be objective and shall otherwise meet the requirements of Section 162(m) of the Code and regulations thereunder including the requirement that the level or levels of performance targeted by the Committee result in the achievement of performance goals being "substantially uncertain." One or more of the following business criteria for the Company, on a consolidated basis, and/or for Related Entities, or for business or geographical units of the Company and/or a Related Entity (except with respect to the total stockholder return and earnings per share criteria), shall be used by the Committee in establishing performance goals for such Awards: (1) earnings per share; (2) revenues or margins; (3) cash flow; (4) operating margin; (5) return on net assets, investment, capital, or equity; (6) economic value added; (7) direct contribution; (8) net income; pretax earnings; earnings before interest and taxes; earnings before interest, taxes, depreciation and amortization; earnings after interest expense and before extraordinary or special items; operating income or income from operations; income before interest income or expense, unusual items and income taxes, local, state or federal and excluding budgeted and actual bonuses which might be paid under any ongoing bonus plans of the Company; (9) working capital; (10) management of fixed costs or variable costs; (11) identification or consummation of investment opportunities or completion of specified projects in accordance with corporate business plans, including strategic mergers, acquisitions or divestitures; (12) total stockholder return; (13) debt reduction; (14) market share; (15) entry into new markets, either geographically or by business unit; (16) customer retention and satisfaction; (17) strategic plan development and implementation, including turnaround plans; and/or (18) the Fair Market Value of a Share. Any of the above goals may be determined on an absolute or relative basis or as compared to the performance of a published or special index deemed applicable by the Committee including, but not limited to, the Standard & Poor's 500 Stock Index or a group of companies that are comparable to the Company. In determining the achievement of the performance goals, the Committee shall exclude the impact of any (i) restructurings, discontinued operations, extraordinary items, and other unusual or non-recurring charges, (ii) event either not directly related to the operations of the Company or not within the reasonable control of the Company's management, or (iii) change in accounting standards required by generally accepted accounting principles.

(c) ***Performance Period; Timing For Establishing Performance Goals***. Achievement of performance goals in respect of Performance Awards shall be measured over a Performance Period no shorter than twelve (12) months and no longer than five (5) years, as specified by the Committee. Performance goals shall be established not later than 90 days after the beginning of any Performance Period applicable to such Performance Awards, or at such other date as may be required or permitted for "performance-based compensation" under Section 162(m) of the Code.

(d) ***Adjustments***. The Committee may, in its discretion, reduce the amount of a settlement otherwise to be made in connection with Awards subject to this Section 8, but may not exercise discretion to increase any such amount payable to a Covered Employee in respect of an Award subject to this Section 8. The Committee shall specify the circumstances in which such Awards shall be paid or forfeited in the event of termination of Continuous Service by the Participant prior to the end of a Performance Period or settlement of Awards.

(e) ***Committee Certification***. No Participant shall receive any payment under the Plan that is subject to this Section 8 unless the Committee has certified, by resolution or other appropriate action in writing, that the performance criteria and any other material terms previously established by the Committee or set forth in the Plan, have been satisfied to the extent necessary to qualify as "performance based compensation" under Section 162(m) of the Code.

9. ***Change in Control.***

(a) ***Effect of "Change in Control."*** If and only to the extent provided in any employment or other agreement between the Participant and the Company or any Related Entity, or in any Award Agreement, or to the extent otherwise determined by the Committee in its sole discretion and without any requirement that each Participant be treated consistently, upon the occurrence of a "Change in Control," as defined in Section 9(b):

(i) Any Option or Stock Appreciation Right that was not previously vested and exercisable as of the time of the Change in Control, shall become immediately vested and exercisable, subject to applicable restrictions set forth in Section 10(a) hereof.

(ii) Any restrictions, deferral of settlement, and forfeiture conditions applicable to a Restricted Stock Award, Deferred Stock Award or an Other Stock-Based Award subject only to future service requirements granted under the Plan shall lapse and such Awards shall be deemed fully vested as of the time of the Change in Control, except to the extent of any waiver by the Participant and subject to applicable restrictions set forth in Section 10(a) hereof.

(iii) With respect to any outstanding Award subject to achievement of performance goals and conditions under the Plan, the Committee may, in its discretion, deem such performance goals and conditions as having been met as of the date of the Change in Control.

(b) ***Definition of "Change in Control."*** Unless otherwise specified in any employment agreement between the Participant and the Company or any Related Entity, or in an Award Agreement, a "Change in Control" shall mean the occurrence of any of the following:

(i) The acquisition by any Person of Beneficial Ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of more than fifty percent (50%) of either (A) the value of then outstanding equity securities of the Company (the "Outstanding Company Stock") or (B) the combined voting power of the then outstanding voting securities of the Company entitled to vote generally in the election of directors (the "Outstanding Company Voting Securities) (the foregoing Beneficial Ownership hereinafter being referred to as a "Controlling Interest"); provided, however, that for purposes of this Section 9(b), the following acquisitions shall not constitute or result in a Change in Control: (v) any acquisition directly from the Company; (w) any acquisition by the Company; (x) any acquisition by any Person that as of the Effective Date owns Beneficial Ownership of a Controlling Interest; (y) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any Related Entity; or (z) any acquisition by any entity pursuant to a transaction which complies with clauses (A), (B) and (C) of subsection (iii) below; or

(ii) During any period of two (2) consecutive years (not including any period prior to the Effective Date) individuals who constitute the Board on the Effective Date (the "Incumbent Board") cease for any reason to constitute at least a majority of the Board; provided, however, that any individual becoming a director subsequent to the Effective Date whose election, or nomination for election by the Company's stockholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board; or

(iii) Consummation of a reorganization, merger, statutory share exchange or consolidation or similar transaction involving the Company or any of its Related Entities, a sale or other disposition of all or substantially all of the assets of the Company, or the acquisition of assets or equity of another entity by the Company or any of its Related Entities (each a "Business Combination"), in each case, unless, following such Business Combination, (A) all or substantially all of the individuals and entities who were the Beneficial Owners, respectively, of the Outstanding Company Stock and Outstanding Company Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than fifty percent (50%) of the value of the then outstanding equity securities and the combined voting power of the then outstanding voting securities entitled to vote generally in the election of members of the board of directors (or comparable governing body of an entity that does not have such a board), as the case may be, of the entity resulting from such Business Combination (including, without limitation, an entity which as a result of such transaction owns the Company or all or substantially all of the Company's assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership, immediately prior to such Business Combination of the Outstanding Company Stock and Outstanding Company Voting Securities, as the case may be, (B) no Person (excluding any employee benefit plan (or related trust) of the Company or such entity resulting from such Business Combination or any Person that as of the Effective Date owns Beneficial Ownership of a Controlling Interest) beneficially owns, directly or indirectly, fifty percent (50%) or more of the value of the then outstanding equity securities of the entity resulting from such Business Combination or the combined voting power of the then outstanding voting securities of such entity except to the extent that such ownership existed prior to the Business Combination and (C) at least a majority of the members of the Board of Directors or other governing body of the entity resulting from such Business Combination were members of the Incumbent Board at the time of the execution of the initial agreement, or of the action of the Board, providing for such Business Combination; or

(iv) Approval by the stockholders of the Company of a complete liquidation or dissolution of the Company.

10. ***General Provisions*.**

(a) ***Compliance With Legal and Other Requirements***. The Company may, to the extent deemed necessary or advisable by the Committee, postpone the issuance or delivery of Shares or payment of other benefits under any Award until completion of such registration or qualification of such Shares or other required action under any federal or state law, rule or regulation, listing or other required action with respect to the Listing Market, or compliance with any other obligation of the Company, as the Committee, may consider appropriate, and may require any Participant to make such representations, furnish such information and comply with or be subject to such other conditions as it may consider appropriate in connection with the issuance or delivery of Shares or payment of other benefits in compliance with applicable laws, rules, and regulations, listing requirements, or other obligations.

(b) ***Limits on Transferability; Beneficiaries***. No Award or other right or interest granted under the Plan shall be pledged, hypothecated or otherwise encumbered or subject to any lien, obligation or liability of such Participant to any party, or assigned or transferred by such Participant otherwise than by will or the laws of descent and distribution or to a Beneficiary upon the death of a Participant, and such Awards or rights that may be exercisable shall be exercised during the lifetime of the Participant only by the Participant or his or her guardian or legal representative, except that Awards and other rights (other than Incentive Stock Options and Stock Appreciation Rights in tandem therewith) may be transferred to one or more Beneficiaries or other transferees during the lifetime of the Participant, and may be exercised by such transferees in accordance with the terms of such Award, but only if and to the extent such transfers are permitted by the Committee pursuant to the express terms of an Award Agreement (subject to any terms and conditions which the Committee may impose thereon). A Beneficiary, transferee, or other person claiming any rights under the Plan from or through any Participant shall be subject to all terms and conditions of the Plan and any Award Agreement applicable to such Participant, except as otherwise determined by the Committee, and to any additional terms and conditions deemed necessary or appropriate by the Committee.

(c) ***Adjustments.***

(i) ***Adjustments to Awards***. In the event that any extraordinary dividend or other distribution (whether in the form of cash, Shares, or other property), recapitalization, forward or reverse split, reorganization, merger, consolidation, spin-off, combination, repurchase, share exchange, liquidation, dissolution or other similar corporate transaction or event affects the Shares and/or such other securities of the Company or any other issuer such that a substitution, exchange, or adjustment is determined by the Committee to be appropriate, then the Committee shall, in such manner as it may deem equitable, substitute, exchange or adjust any or all of (A) the number and kind of Shares which may be delivered in connection with Awards granted thereafter, (B) the number and kind of Shares by which annual per-person Award limitations are measured under Section 4 hereof, (C) the number and kind of Shares subject to or deliverable in respect of outstanding Awards, (D) the exercise price, grant price or purchase price relating to any Award and/or make provision for payment of cash or other property in respect of any outstanding Award, and (E) any other aspect of any Award that the Committee determines to be appropriate.

(ii) ***Adjustments in Case of Certain Transactions***. In the event of any merger, consolidation or other reorganization in which the Company does not survive, or in the event of any Change in Control, any outstanding Awards may be dealt with in accordance with any of the following approaches, without the requirement of obtaining any consent or agreement of a Participant as such, as determined by the agreement effectuating the transaction or, if and to the extent not so determined, as determined by the Committee: (a) the continuation of the outstanding Awards by the Company, if the Company is a surviving entity, (b) the assumption or substitution for, as those terms are defined in Section 9(a)(iv) hereof, the outstanding Awards by the surviving entity or its parent or subsidiary, (c) full exercisability or vesting and accelerated expiration of the outstanding Awards, or (d) settlement of the value of the outstanding Awards in cash or cash equivalents or other property followed by cancellation of such Awards (which value, in the case of Options or Stock Appreciation Rights, shall be measured by the amount, if any, by which the Fair Market Value of a Share exceeds the exercise or grant price of the Option or Stock Appreciation Right as of the effective date of the transaction). The Committee shall give written notice of any proposed transaction referred to in this Section 10(c)(ii) at a reasonable period of time prior to the closing date for such transaction (which notice may be given either before or after the approval of such transaction), in order that Participants may have a reasonable period of time prior to the closing date of such transaction within which to exercise any Awards that are then exercisable (including any Awards that may become exercisable upon the closing date of such transaction). A Participant may condition his exercise of any Awards upon the consummation of the transaction.

(iii) ***Other Adjustments***. The Committee (and the Board if and only to the extent such authority is not required to be exercised by the Committee to comply with Section 162(m) of the Code) is authorized to make adjustments in the terms and conditions of, and the criteria included in, Awards (including Performance Awards, or performance goals and conditions relating thereto) in recognition of unusual or nonrecurring events (including, without limitation, acquisitions and dispositions of businesses and assets) affecting the Company, any Related Entity or any business unit, or the financial statements of the Company or any Related Entity, or in response to changes in applicable laws, regulations, accounting principles, tax rates and regulations or business conditions or in view of the Committee's assessment of the business strategy of the Company, any Related Entity or business unit thereof, performance of comparable organizations, economic and business conditions, personal performance of a Participant, and any other circumstances deemed relevant; provided that no such adjustment shall be authorized or made if and to the extent that such authority or the making of such adjustment would cause Options, Stock Appreciation Rights, Performance Awards granted pursuant to Section 8(b) hereof to Participants designated by the Committee as Covered Employees and intended to qualify as "performance-based compensation" under Code Section 162(m) and the regulations thereunder to otherwise fail to qualify as "performance-based compensation" under Code Section 162(m) and regulations thereunder. Adjustments permitted hereby may include, without limitation, increasing the exercise price of Options and Stock Appreciation Rights, increasing performance goals, or other adjustments that may be adverse to the Participant.

(d) ***Taxes***. The Company and any Related Entity are authorized to withhold from any Award granted, any payment relating to an Award under the Plan, including from a distribution of Shares, or any payroll or other payment to a Participant, amounts of withholding and other taxes due or potentially payable in connection with any transaction involving an Award, and to take such other action as the Committee may deem advisable to enable the Company or any Related Entity and Participants to satisfy obligations for the payment of withholding taxes and other tax obligations relating to any Award. This authority shall include authority to withhold or receive Shares or other property and to make cash payments in respect thereof in satisfaction of a Participant's tax obligations, either on a mandatory or elective basis in the discretion of the Committee.

(e) ***Changes to the Plan and Awards***. The Board may amend, alter, suspend, discontinue or terminate the Plan, or the Committee's authority to grant Awards under the Plan, without the consent of stockholders or Participants, except that any amendment or alteration to the Plan shall be subject to the approval of the Company's stockholders not later than the annual meeting next following such Board action if such stockholder approval is required by any federal or state law or regulation (including, without limitation, Rule 16b-3 or Code Section 162(m)) or the rules of the Listing Market, and the Board may otherwise, in its discretion, determine to submit other such changes to the Plan to stockholders for approval; provided that, except as otherwise permitted by the Plan or Award Agreement, without the consent of an affected Participant, no such Board action may materially and adversely affect the rights of such Participant under the terms of any previously granted and outstanding Award. The Committee may waive any conditions or rights under, or amend, alter, suspend, discontinue or terminate any Award theretofore granted and any Award Agreement relating thereto, except as otherwise provided in the Plan; provided that, except as otherwise permitted by the Plan or Award Agreement, without the consent of an affected Participant, no such Committee or the Board action may materially and adversely affect the rights of such Participant under terms of such Award. Notwithstanding anything to the contrary, the Committee shall be authorized to amend any outstanding Option and/or Stock Appreciation Right to reduce the exercise price or grant price without the prior approval of the stockholders of the Company. In addition, the Committee shall be authorized to cancel outstanding Options and/or Stock Appreciation Rights replaced with Awards having a lower exercise price without the prior approval of the stockholders of the Company.

(f) ***Limitation on Rights Conferred Under Plan***. Neither the Plan nor any action taken hereunder or under any Award shall be construed as (i) giving any Eligible Person or Participant the right to continue as an Eligible Person or Participant or in the employ or service of the Company or a Related Entity; (ii) interfering in any way with the right of the Company or a Related Entity to terminate any Eligible Person's or Participant's Continuous Service at any time, (iii) giving an Eligible Person or Participant any claim to be granted any Award under the Plan or to be treated uniformly with other Participants and Employees, or (iv) conferring on a Participant any of the rights of a stockholder of the Company including, without limitation, any right to receive dividends or distributions, any right to vote or act by written consent, any right to attend meetings of stockholders or any right to receive any information concerning the Company's business, financial condition, results of operation or prospects, unless and until such time as the Participant is duly issued Shares on the stock books of the Company in accordance with the terms of an Award. None of the Company, its officers or its directors shall have any fiduciary obligation to the Participant with respect to any Awards unless and until the Participant is duly issued Shares pursuant to the Award on the stock books of the Company in accordance with the terms of an Award. Neither the Company nor any of the Company's officers, directors, representatives or agents is granting any rights under the Plan to the Participant whatsoever, oral or written, express or implied, other than those rights expressly set forth in this Plan or the Award Agreement.

(g) ***Unfunded Status of Awards; Creation of Trusts***. The Plan is intended to constitute an "unfunded" plan for incentive and deferred compensation. With respect to any payments not yet made to a Participant or obligation to deliver Shares pursuant to an Award, nothing contained in the Plan or any Award shall give any such Participant any rights that are greater than those of a general creditor of the Company; provided that the Committee may authorize the creation of trusts and deposit therein cash, Shares, other Awards or other property, or make other arrangements to meet the Company's obligations under the Plan. Such trusts or other arrangements shall be consistent with the "unfunded" status of the Plan unless the Committee otherwise determines with the consent of each affected Participant. The trustee of such trusts may be authorized to dispose of trust assets and reinvest the proceeds in alternative investments, subject to such terms and conditions as the Committee may specify and in accordance with applicable law.

(h) ***Nonexclusivity of the Plan***. Neither the adoption of the Plan by the Board nor its submission to the stockholders of the Company for approval shall be construed as creating any limitations on the power of the Board or a committee thereof to adopt such other incentive arrangements as it may deem desirable including incentive arrangements and awards which do not qualify under Section 162(m) of the Code.

(i) ***Payments in the Event of Forfeitures; Fractional Shares***. Unless otherwise determined by the Committee, in the event of a forfeiture of an Award with respect to which a Participant paid cash or other consideration, the Participant shall be repaid the amount of such cash or other consideration. No fractional Shares shall be issued or delivered pursuant to the Plan or any Award. The Committee shall determine whether cash, other Awards or other property shall be issued or paid in lieu of such fractional shares or whether such fractional shares or any rights thereto shall be forfeited or otherwise eliminated.

(j) ***Governing Law***. The validity, construction and effect of the Plan, any rules and regulations under the Plan, and any Award Agreement shall be determined in accordance with the laws of the State of Delaware without giving effect to principles of conflict of laws, and applicable federal law.

(k) ***Non-U.S. Laws***. The Committee shall have the authority to adopt such modifications, procedures, and subplans as may be necessary or desirable to comply with provisions of the laws of foreign countries in which the Company or its Related Entities may operate to assure the viability of the benefits from Awards granted to Participants performing services in such countries and to meet the objectives of the Plan.

(l) ***Plan Effective Date and Stockholder Approval; Termination of Plan***. The Plan shall become effective on the Effective Date, subject to subsequent approval, within 12 months of its adoption by the Board, by stockholders of the Company eligible to vote in the election of directors, by a vote sufficient to meet the requirements of Code Sections 162(m) (if applicable) and 422, Rule 16b-3 under the Exchange Act (if applicable), applicable requirements under the rules of any stock exchange or automated quotation system on which the Shares may be listed or quoted, and other laws, regulations, and obligations of the Company applicable to the Plan. Awards may be granted subject to stockholder approval, but may not be exercised or otherwise settled in the event the stockholder approval is not obtained. The Plan shall terminate at the earliest of (a) such time as no Shares remain available for issuance under the Plan, (b) termination of this Plan by the Board, or (c) the tenth anniversary of the Effective Date. Awards outstanding upon expiration of the Plan shall remain in effect until they have been exercised or terminated, or have expired.

Exhibit 10.30

AUDIOEYE, INC.
NOTICE OF GRANT OF RESTRICTED STOCK UNITS
(For U.S. Participants)

AudioEye, Inc. (the "***Company***") has granted to the Participant an award (the "***Award***") of certain units pursuant to the AudioEye, Inc. _____ Incentive Compensation Plan (the "***Plan***"), each of which represents the right to receive on the applicable Settlement Date one (1) Share, as follows:

Participant:

Date of Grant:

Total Number of Units: _____ (each a "***Unit***"), subject to adjustment as provided by the Restricted Stock Units Agreement.

Vesting Commencement Date:

Vested Units: Except as provided in the Restricted Stock Units Agreement, the vesting of each Unit shall occur as follows:

Settlement Date: [Except as provided by the Restricted Stock Units Agreement, the Settlement Date with respect to each Unit shall be the earlier of: (i) _____ and (ii) immediately prior to the closing of a "change in control event" within the meaning of Treasury Regulation Section 1.409A-3(i)(5).]

By their signatures below or by electronic acceptance or authentication in a form authorized by the Company, the Company and the Participant agree that the Award is governed by this Grant Notice and by the provisions of the Restricted Stock Units Agreement and the Plan, both of which are made a part of this document. The Participant acknowledges that copies of the Plan, the Restricted Stock Units Agreement and the prospectus for the Plan are available on the Company's internal web site and may be viewed and printed by the Participant for attachment to the Participant's copy of this Grant Notice. The Participant represents that the Participant has read and is familiar with the provisions of the Restricted Stock Units Agreement and the Plan, and hereby accepts the Award subject to all of their terms and conditions.

AUDIOEYE, INC.

By: _____

Address: 5210 E. Williams Circle
Suite 750
Tucson, AZ 85711

PARTICIPANT

_____
Signature

_____
Date

_____
Address

ATTACHMENTS: Plan, Restricted Stock Units Agreement and Plan Prospectus

AUDIOEYE, INC.
RESTRICTED STOCK UNITS AGREEMENT
(For U.S. Participants)

AudioEye, Inc. has granted to the Participant named in the *Notice of Grant of Restricted Stock Units* (the "***Grant Notice***") to which this Restricted Stock Units Agreement (the "***Agreement***") is attached an Award consisting of Restricted Stock Units (each a "***Unit***") subject to the terms and conditions set forth in the Grant Notice and this Agreement. The Award has been granted pursuant to and shall in all respects be subject to the terms conditions of the AudioEye, Inc. _____ Incentive Compensation Plan (the "***Plan***"), as amended to the Date of Grant, the provisions of which are incorporated herein by reference. By signing the Grant Notice, the Participant: (a) acknowledges receipt of and represents that the Participant has read and is familiar with the Grant Notice, this Agreement, the Plan and a prospectus for the Plan prepared in connection with the registration with the Securities and Exchange Commission of the shares issuable pursuant to the Award (the "***Plan Prospectus***"), (b) accepts the Award subject to all of the terms and conditions of the Grant Notice, this Agreement and the Plan and (c) agrees to accept as binding, conclusive and final all decisions or interpretations of the Committee upon any questions arising under the Grant Notice, this Agreement or the Plan.

1. **DEFINITIONS AND CONSTRUCTION.**

1.1 **Definitions.** Unless otherwise defined herein, capitalized terms shall have the meanings assigned to such terms in the Grant Notice or the Plan.

(a) "***Officer***" means any person designated by the Board as an officer of the Company.

(b) "***Ownership Change Event***" means a transaction described in Section 10(c)(ii) of the Plan.

(c) "***Participating Company***" means the Company or any Related Entity.

(d) "***Participating Company Group***" means, at any point in time, all entities collectively which are then Participating Companies.

(e) "***Trading Compliance Policy***" means the written policy of the Company pertaining to the purchase, sale, transfer or other disposition of the Company's equity securities by Directors, Officers, Employees or other service providers who may possess material, nonpublic information regarding the Company or its securities.

1.2 **Construction.** Captions and titles contained herein are for convenience only and shall not affect the meaning or interpretation of any provision of this Agreement. Except when otherwise indicated by the context, the singular shall include the plural and the plural shall include the singular. Use of the term "or" is not intended to be exclusive, unless the context clearly requires otherwise.

2. **ADMINISTRATION.**

All questions of interpretation concerning the Grant Notice, this Agreement, the Plan or any other form of agreement or other document employed by the Company in the administration of the Plan or the Award shall be determined by the Committee. All such determinations by the Committee shall be final, binding and conclusive upon all persons having an interest in the Award, unless fraudulent or made in bad faith. Any and all actions, decisions and determinations taken or made by the Committee in the exercise of its discretion pursuant to the Plan or the Award or other agreement thereunder (other than determining questions of interpretation pursuant to the preceding sentence) shall be final, binding and conclusive upon all persons having an interest in the Award. Any Officer shall have the authority to act on behalf of the Company with respect to any matter, right, obligation, or election which is the responsibility of or which is allocated to the Company herein, provided the Officer has apparent authority with respect to such matter, right, obligation, or election.

3. **THE AWARD.**

3.1 **Grant of Units.** On the Date of Grant, the Participant shall acquire, subject to the provisions of this Agreement, the Total Number of Units set forth in the Grant Notice, subject to adjustment as provided in Sections 3.2 and 9. Each Unit represents a right to receive on a date determined in accordance with the Grant Notice and this Agreement one (1) Share.

3.2 **No Monetary Payment Required.** The Participant is not required to make any monetary payment (other than applicable tax withholding, if any) as a condition to receiving the Units or Shares issued upon settlement of the Units, the consideration for which shall be past services actually rendered or future services to be rendered to a Participating Company or for its benefit. Notwithstanding the foregoing, if required by applicable law, the Participant shall furnish consideration in the form of cash or past services rendered to a Participating Company or for its benefit having a value not less than the par value of the Shares issued upon settlement of the Units.

4. **VESTING OF UNITS**.

4.1 **Normal Vesting.** Units acquired pursuant to this Agreement shall become Vested Units as provided in the Grant Notice. For purposes of determining the number of Vested Units following an Ownership Change Event, credited Continuous Service shall include all service with any corporation which is a Participating Company at the time the service is rendered, whether or not such corporation is a Participating Company both before and after the Ownership Change Event.

5. **COMPANY REACQUISITION RIGHT.**

5.1 **Grant of Company Reacquisition Right.** In the event that the Participant's Continuous Service terminates for any reason or no reason, with or without cause, the Participant shall forfeit and the Company shall automatically reacquire all Units which are not, as of the time of such termination, Vested Units (***"Unvested Units"***), and the Participant shall not be entitled to any payment therefor (the ***"Company Reacquisition Right"***).

5.2 **Ownership Change Event, Non-Cash Dividends, Distributions and Adjustments.** Upon the occurrence of an Ownership Change Event, a dividend or distribution to the stockholders of the Company paid in Shares or other property, or any other adjustment upon a change in the capital structure of the Company as described in Section 9, any and all new, substituted or additional securities or other property (other than regular, periodic cash dividends paid on Stock pursuant to the Company's dividend policy) to which the Participant is entitled by reason of the Participant's ownership of Unvested Units shall be immediately subject to the Company Reacquisition Right and included in the terms "Units" and "Unvested Units" for all purposes of the Company Reacquisition Right with the same force and effect as the Unvested Units immediately prior to the Ownership Change Event, dividend, distribution or adjustment, as the case may be. For purposes of determining the number of Vested Units following an Ownership Change Event, dividend, distribution or adjustment, credited Continuous Service shall include all service with any corporation which is a Participating Company at the time the service is rendered, whether or not such corporation is a Participating Company both before and after any such event.

6. **SETTLEMENT OF THE AWARD.**

6.1 **Issuance of Shares.** Subject to the provisions of Section 6.3, the Company shall issue to the Participant on the Settlement Date with respect to each Vested Unit to be settled on such date one (1) Share. The Settlement Date with respect to a Unit shall be the date on which such Unit becomes a Vested Unit as provided by the Grant Notice (an "***Original Settlement Date***"); provided, however, that if the tax withholding obligations of a Participating Company, if any, will not be satisfied by the share withholding method described in Section 7.3 and the Original Settlement Date would occur on a date on which a sale by the Participant of the shares to be issued in settlement of the Vested Units would violate the Trading Compliance Policy of the Company, then the Settlement Date for such Vested Units shall be deferred until the next day on which the sale of such shares would not violate the Trading Compliance Policy, but in any event on or before the 15th day of the third calendar month following calendar year of the Original Settlement Date. Shares issued in settlement of Units shall not be subject to any restriction on transfer other than any such restriction as may be required pursuant to Section 6.3, Section 7 or the Company's Trading Compliance Policy.

6.2 **Beneficial Ownership of Shares; Certificate Registration.** The Participant hereby authorizes the Company, in its sole discretion, to deposit any or all Shares acquired by the Participant pursuant to the settlement of the Award with the Company's transfer agent, including any successor transfer agent, to be held in book entry form, or to deposit such shares for the benefit of the Participant with any broker with which the Participant has an account relationship of which the Company has notice. Except as provided by the foregoing, a certificate for the Shares acquired by the Participant shall be registered in the name of the Participant, or, if applicable, in the names of the heirs of the Participant.

6.3 **Restrictions on Grant of the Award and Issuance of Shares.** The grant of the Award and issuance of Shares upon settlement of the Award shall be subject to compliance with all applicable requirements of federal, state or foreign law with respect to such securities. No Shares may be issued hereunder if their issuance would constitute a violation of any applicable federal, state or foreign securities laws or other law or regulations or the requirements of any stock exchange or market system upon which the Shares may then be listed. The inability of the Company to obtain from any regulatory body having jurisdiction the authority, if any, deemed by the Company's legal counsel to be necessary to the lawful issuance of any Shares subject to the Award shall relieve the Company of any liability in respect of the failure to issue such Shares as to which such requisite authority shall not have been obtained. As a condition to the settlement of the Award, the Company may require the Participant to satisfy any qualifications that may be necessary or appropriate, to evidence compliance with any applicable law or regulation and to make any representation or warranty with respect thereto as may be requested by the Company.

6.4 **Fractional Shares.** The Company shall not be required to issue fractional Shares upon the settlement of the Award.

7. **TAX WITHHOLDING.**

7.1 **In General.** At the time the Grant Notice is executed, or at any time thereafter as requested by a Participating Company, the Participant hereby authorizes withholding from payroll and any other amounts payable to the Participant, and otherwise agrees to make adequate provision for, any sums required to satisfy the federal, state, local and foreign tax (including any social insurance) withholding obligations of the Participating Company, if any, which arise in connection with the Award, the vesting of Units or the issuance of Shares in settlement thereof. The Company shall have no obligation to deliver Shares until the tax withholding obligations of the Participating Company have been satisfied by the Participant.

7.2 **Assignment of Sale Proceeds.** Subject to compliance with applicable law and the Company's Trading Compliance Policy, if permitted by the Company, the Participant may satisfy the Participating Company's tax withholding obligations in accordance with procedures established by the Company providing for delivery by the Participant to the Company or a broker approved by the Company of properly executed instructions, in a form approved by the Company, providing for the assignment to the Company of the proceeds of a sale with respect to some or all of the shares being acquired upon settlement of Units.

7.3 **Withholding in Shares.** The Company shall have the right, but not the obligation, to require the Participant to satisfy all or any portion of a Participating Company's tax withholding obligations by deducting from the Shares otherwise deliverable to the Participant in settlement of the Award a number of whole shares having a fair market value, as determined by the Company as of the date on which the tax withholding obligations arise, not in excess of the amount of such tax withholding obligations determined by the applicable minimum statutory withholding rates if required to avoid liability classification of the Award under generally accepted accounting principles in the United States.

8. **EFFECT OF CHANGE IN CONTROL OR OTHER OWNERSHIP CHANGE EVENT.**

In the event of a Change in Control or other Ownership Change Event, the Award shall be subject to the definitive agreement entered into by the Company in connection with the Ownership Change Event. The surviving, continuing, successor, or purchasing entity or parent thereof, as the case may be (the "***Acquiror***"), may, without the consent of the Participant, assume or continue in full force and effect the Company's rights and obligations under all or any portion of the outstanding Units or substitute for all or any portion of the outstanding Units substantially equivalent rights with respect to the Acquiror's stock. For purposes of this Section, a Unit shall be deemed assumed if, following the Ownership Change Event, the Unit confers the right to receive, subject to the terms and conditions of the Plan and this Agreement, the consideration (whether stock, cash, other securities or property or a combination thereof) to which a holder of a Share on the effective date of the Ownership Change Event was entitled (and if holders were offered a choice of consideration, the type of consideration chosen by the holders of a majority of the outstanding Shares); provided, however, that if such consideration is not solely common stock of the Acquiror, the Committee may, with the consent of the Acquiror, provide for the consideration to be received upon settlement of the Unit to consist solely of common stock of the Acquiror equal in Fair Market Value to the per share consideration received by holders of Share pursuant to the Ownership Change Event. The Award shall terminate and cease to be outstanding effective as of the time of consummation of the Ownership Change Event to the extent that Units subject to the Award are neither assumed or continued by the Acquiror in connection with the Ownership Change Event nor settled as of the time of the Ownership Change Event.

9. **ADJUSTMENTS FOR CHANGES IN CAPITAL STRUCTURE.**

Subject to any required action by the stockholders of the Company and the requirements of Section 409A of the Code to the extent applicable, in the event of any change in the Stock effected without receipt of consideration by the Company, whether through merger, consolidation, reorganization, reincorporation, recapitalization, reclassification, stock dividend, stock split, reverse stock split, split-up, split-off, spin-off, combination of shares, exchange of shares, or similar change in the capital structure of the Company, or in the event of payment of a dividend or distribution to the stockholders of the Company in a form other than Shares (other than regular, periodic cash dividends paid on Shares pursuant to the Company's dividend policy) that has a material effect on the Fair Market Value of Shares, appropriate and proportionate adjustments shall be made in the number of Units subject to the Award and/or the number and kind of shares or other property to be issued in settlement of the Award, in order to prevent dilution or enlargement of the Participant's rights under the Award. For purposes of the foregoing, conversion of any convertible securities of the Company shall not be treated as "effected without receipt of consideration by the Company." Any and all new, substituted or additional securities or other property (other than regular, periodic cash dividends paid on Shares pursuant to the Company's dividend policy) to which the Participant is entitled by reason of ownership of Units acquired pursuant to this Award will be immediately subject to the provisions of this Award on the same basis as all Units originally acquired hereunder. Any fractional Unit or share resulting from an adjustment pursuant to this Section shall be rounded down to the nearest whole number. Such adjustments shall be determined by the Committee, and its determination shall be final, binding and conclusive.

10. **RIGHTS AS A STOCKHOLDER, DIRECTOR, EMPLOYEE OR CONSULTANT.**

The Participant shall have no rights as a stockholder with respect to any Shares which may be issued in settlement of this Award until the date of the issuance of such Shares (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company). No adjustment shall be made for dividends, distributions or other rights for which the record date is prior to the date the Shares are issued, except as provided in Section 9. For the avoidance of doubt, this Award does not provide for payment to the Participant of any Dividend Equivalents. If the Participant is an Employee, the Participant understands and acknowledges that, except as otherwise provided in a separate, written employment agreement between a Participating Company and the Participant, the Participant's employment is "at will" and is for no specified term. Nothing in this Agreement shall confer upon the Participant any right to continue in the service of a Participating Company or interfere in any way with any right of the Participating Company Group to terminate the Participant's service at any time.

11. **LEGENDS.**

The Company may at any time place legends referencing any applicable federal, state or foreign securities law restrictions on all certificates representing Shares issued pursuant to this Agreement. The Participant shall, at the request of the Company, promptly present to the Company any and all certificates representing shares acquired pursuant to this Award in the possession of the Participant in order to carry out the provisions of this Section.

12. **COMPLIANCE WITH SECTION 409A.**

It is intended that any election, payment or benefit which is made or provided pursuant to or in connection with this Award that may result in the payment of deferred compensation subject to Section 409A of the Code ("***Section 409A***") shall comply in all respects with the applicable requirements of Section 409A (including applicable regulations or other administrative guidance thereunder, as determined by the Committee in good faith) to avoid the unfavorable tax consequences provided therein for non-compliance. In connection with effecting such compliance with Section 409A, the following shall apply:

12.1 **Separation from Service; Required Delay in Payment to Specified Employee.** Notwithstanding anything set forth herein to the contrary, no amount payable pursuant to this Agreement on account of the Participant's termination of Continuous Service which constitutes a "deferral of compensation" within the meaning of the Treasury Regulations issued pursuant to Section 409A of the Code (the "***Section 409A Regulations***") shall be paid unless and until the Participant has incurred a "separation from service" within the meaning of the Section 409A Regulations. Furthermore, to the extent that the Participant is a "specified employee" within the meaning of the Section 409A Regulations as of the date of the Participant's separation from service, no amount that constitutes a deferral of compensation which is payable on account of the Participant's separation from service shall be paid to the Participant before the date (the "***Delayed Payment Date***") which is first day of the seventh month after the date of the Participant's separation from service or, if earlier, the date of the Participant's death following such separation from service. All such amounts that would, but for this Section, become payable prior to the Delayed Payment Date will be accumulated and paid on the Delayed Payment Date.

12.2 **Other Changes in Time of Payment.** Neither the Participant nor the Company shall take any action to accelerate or delay the payment of any benefits under this Agreement in any manner which would not be in compliance with the Section 409A Regulations.

12.3 **Amendments to Comply with Section 409A; Indemnification.** Notwithstanding any other provision of this Agreement to the contrary, the Company is authorized to amend this Agreement, to void or amend any election made by the Participant under this Agreement and/or to delay the payment of any monies and/or provision of any benefits in such manner as may be determined by the Company, in its discretion, to be necessary or appropriate to comply with the Section 409A Regulations without prior notice to or consent of the Participant. The Participant hereby releases and holds harmless the Company, its directors, officers and stockholders from any and all claims that may arise from or relate to any tax liability, penalties, interest, costs, fees or other liability incurred by the Participant in connection with the Award, including as a result of the application of Section 409A.

12.4 **Advice of Independent Tax Advisor.** The Company has not obtained a tax ruling or other confirmation from the Internal Revenue Service with regard to the application of Section 409A to the Award, and the Company does not represent or warrant that this Agreement will avoid adverse tax consequences to the Participant, including as a result of the application of Section 409A to the Award. The Participant hereby acknowledges that he or she has been advised to seek the advice of his or her own independent tax advisor prior to entering into this Agreement and is not relying upon any representations of the Company or any of its agents as to the effect of or the advisability of entering into this Agreement.

13. **MISCELLANEOUS PROVISIONS.**

13.1 **Termination or Amendment.** The Committee may terminate or amend the Plan or this Agreement at any time; provided, however, that except as provided in Section 8 in connection with a Ownership Change Event, no such termination or amendment may have a materially adverse effect on the Participant's rights under this Agreement without the consent of the Participant unless such termination or amendment is necessary to comply with applicable law or government regulation, including, but not limited to, Section 409A. No amendment or addition to this Agreement shall be effective unless in writing.

13.2 **Nontransferability of the Award.** Prior to the issuance of Shares on the applicable Settlement Date, neither this Award nor any Units subject to this Award shall be subject in any manner to anticipation, alienation, sale, exchange, transfer, assignment, pledge, encumbrance, or garnishment by creditors of the Participant or the Participant's beneficiary, except transfer by will or by the laws of descent and distribution. All rights with respect to the Award shall be exercisable during the Participant's lifetime only by the Participant or the Participant's guardian or legal representative.

13.3 **Further Instruments.** The parties hereto agree to execute such further instruments and to take such further action as may reasonably be necessary to carry out the intent of this Agreement.

13.4 **Binding Effect.** This Agreement shall inure to the benefit of the successors and assigns of the Company and, subject to the restrictions on transfer set forth herein, be binding upon the Participant and the Participant's heirs, executors, administrators, successors and assigns.

13.5 **Delivery of Documents and Notices.** Any document relating to participation in the Plan or any notice required or permitted hereunder shall be given in writing and shall be deemed effectively given (except to the extent that this Agreement provides for effectiveness only upon actual receipt of such notice) upon personal delivery, electronic delivery at the e-mail address, if any, provided for the Participant by a Participating Company, or upon deposit in the U.S. Post Office or foreign postal service, by registered or certified mail, or with a nationally recognized overnight courier service, with postage and fees prepaid, addressed to the other party at the address of such party set forth in the Grant Notice or at such other address as such party may designate in writing from time to time to the other party.

(a) ***Description of Electronic Delivery.*** The Plan documents, which may include but do not necessarily include: the Plan, the Grant Notice, this Agreement, the Plan Prospectus, and any reports of the Company provided generally to the Company's stockholders, may be delivered to the Participant electronically. In addition, if permitted by the Company, the Participant may deliver electronically the Grant Notice to the Company or to such third party involved in administering the Plan as the Company may designate from time to time. Such means of electronic delivery may include but do not necessarily include the delivery of a link to a Company intranet or the Internet site of a third party involved in administering the Plan, the delivery of the document via e-mail or such other means of electronic delivery specified by the Company.

(b) ***Consent to Electronic Delivery.*** The Participant acknowledges that the Participant has read Section 13.5(a) of this Agreement and consents to the electronic delivery of the Plan documents and, if permitted by the Company, the delivery of the Grant Notice, as described in Section 13.5(a). The Participant acknowledges that he or she may receive from the Company a paper copy of any documents delivered electronically at no cost to the Participant by contacting the Company by telephone or in writing. The Participant further acknowledges that the Participant will be provided with a paper copy of any documents if the attempted electronic delivery of such documents fails. Similarly, the Participant understands that the Participant must provide the Company or any designated third party administrator with a paper copy of any documents if the attempted electronic delivery of such documents fails. The Participant may revoke his or her consent to the electronic delivery of documents described in Section 13.5(a) or may change the electronic mail address to which such documents are to be delivered (if Participant has provided an electronic mail address) at any time by notifying the Company of such revoked consent or revised e-mail address by telephone, postal service or electronic mail. Finally, the Participant understands that he or she is not required to consent to electronic delivery of documents described in Section 13.5(a).

13.6 **Integrated Agreement.** The Grant Notice, this Agreement and the Plan shall constitute the entire understanding and agreement of the Participant and the Participating Company Group with respect to the subject matter contained herein or therein and supersede any prior agreements, understandings, restrictions, representations, or warranties among the Participant and the Participating Company Group with respect to such subject matter. To the extent contemplated herein or therein, the provisions of the Grant Notice, this Agreement and the Plan shall survive any settlement of the Award and shall remain in full force and effect.

13.7 **Applicable Law.** This Agreement shall be governed by the laws of the State of Delaware without giving effect to principles of conflict of laws.

13.8 **Counterparts.** The Grant Notice may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Exhibit 10.31

Performance Option Agreement

This Performance Option Agreement (this "**Agreement**") is made and entered into as of _____ (the "**Grant Date**") by and between AudioEye, Inc., a Delaware corporation (the "**Company**") and _____ (the "**Grantee**").

WHEREAS, the Board has approved the AudioEye, Inc. _____ Incentive Compensation Plan (the "**Plan**"), subject to shareholder approval, pursuant to which Performance Option Units may be granted; and

WHEREAS, the Board has determined that it is in the best interests of the Company and its stockholders to grant the award of Performance Option provided for herein.

NOW, THEREFORE, the parties hereto, intending to be legally bound, agree as follows:

1. Definitions. Capitalized terms that are used but not defined herein have the meanings ascribed to them in the Plan, a copy of which has been provided to the Grantee.

2. Grant of Performance Option. Pursuant to Section 6(h) of the Plan, the Company hereby grants to the Grantee an Award of up to an aggregate of _____ Performance Options (the "**Target Award**"), subject to increase of up to a total of _____ Performance Options (the "**Max Options**") as described on Exhibit A-2 attached hereto. Each Performance Options ("**PO**") represents the right to receive one Option to purchase one share of Company's Common Stock, subject to the terms and conditions set forth in this Agreement and the Plan. The number of POs that the Grantee actually earns for a Performance Period (up to a maximum of _____ Options) will be determined by the level of achievement of the Performance Goals in accordance with Exhibit A-1 attached hereto.

3. Performance Period. For purposes of this Agreement, "Performance Period" shall be the calendar year commencing on [January 1, _____] and ending on the following [December 31], of each calendar year. Subject to vesting as provided in Section 5, there shall be [two] Performance Periods commencing on [January 1, ____ through December 31, ____, and from January 1, _____ through December 31, ____], with the opportunity to earn a full award of Max Options based on achievement of Performance Goals on a cumulative basis for the [two] Performance Periods as described on Exhibit A-1.

4. Performance Goals.

4.1 The number of POs earned by the Grantee for a Performance Period will be determined at the end of the Performance Period based on the level of achievement of the Performance Goals in accordance with Exhibit A hereto. All determinations of whether Performance Goals have been achieved, the number of POs earned by the Grantee, and all other matters related to this Section 4 shall be made by the Committee in its sole discretion.

4.2 Promptly following completion of a Performance Period (and no later than forty-five (45) days following the end of such Performance Period), the Committee will review and certify in writing (a) whether, and to what extent, the Performance Goals for the Performance Period have been achieved, and (b) the number of POs that the Grantee shall earn, if any, subject to compliance with the requirements of Section 5. Such certification shall be final, conclusive and binding on the Grantee, and on all other persons, to the maximum extent permitted by law.

5. Vesting of POs. The POs are subject to forfeiture until they vest. Except as otherwise provided herein, the POs will vest and become nonforfeitable on the last day of a Performance Period with respect to the POs earned for such Performance Period in accordance with Section 4.2, subject to (a) the achievement of the minimum threshold Performance Goals for payout set forth in Exhibit A-1 hereto, and (b) the Grantee's Continuous Service from the Grant Date through the last day of the Performance Period. The number of POs that vest and become payable under this Agreement shall be determined by the Committee based on the level of achievement of the Performance Goals set forth in Exhibit A-1 hereto and shall be rounded to the nearest whole PO.

6. Option Term and Exercise Price. The Options shall have a term of [five] years from the date of grant and the exercise price determined by using a [10-day average closing price] of the Company's Common Stock over the [ten (10)] trading days beginning on _____, _____, which the Committee has determined to be and the Board agrees is an amount that is not less than the fair market value of a share of the common stock of the Company on such date.

7. Termination of Continuous Service.

7.1 Except as otherwise expressly provided in this Agreement, if the Grantee's Continuous Service terminates for any reason at any time before all of his POs have vested, the Grantee's unvested POs shall be automatically forfeited upon such termination of Continuous Service and neither the Company nor any Affiliate shall have any further obligations to the Grantee under this Agreement.

7.2 Notwithstanding Section 7.1, if the Grantee's Continuous Service terminates during the Performance Period as a result of the Grantee's death, Disability or termination by the Company without Cause, or termination by the Grantee for Good Reason, all of the outstanding POs will vest as to such Performance Period in accordance with Section 4 subject to achievement of the Performance Goal(s) for such Performance Period as if the Grantee's Continuous Service had not terminated.

8. Payment of POs. Payment in respect of the POs earned for the Performance Period shall be made in Options to purchase shares of the Company's Common Stock and shall be issued to the Grantee as soon as practicable following the vesting date. The Company shall cause the issuance and delivery to the Grantee of the number of Options to purchase shares of the Company's Common Stock equal to the number of vested POs.

9. Transferability. Subject to any exceptions set forth in this Agreement or the Plan, the POs or the rights relating thereto may not be assigned, alienated, pledged, attached, sold or otherwise transferred or encumbered by the Grantee, except by will or the laws of descent and distribution, and upon any such transfer by will or the laws of descent and distribution, the transferee shall hold such POs subject to all of the terms and conditions that were applicable to the Grantee immediately prior to such transfer.

10. Rights as Shareholder.

10.1 The Grantee shall not have any rights of a shareholder with respect to the shares of Common Stock underlying the POs, including, but not limited to, voting rights and the right to receive or accrue dividends or dividend equivalents.

10.2 Upon and following the vesting and exercise of the POs and the issuance of Company shares, the Grantee shall be the record owner of the shares of Common Stock underlying the POs unless and until such shares are sold or otherwise disposed of, and as record owner, shall be entitled to all rights of a stockholder of the Company (including voting and dividend rights).

11. No Right to Continued Service. Neither the Plan nor this Agreement shall confer upon the Grantee any right to be retained in any position, as an Employee, Consultant or Director of the Company. Further, nothing in the Plan or this Agreement shall be construed to limit the discretion of the Company to terminate the Grantee's Continuous Service at any time, with or without Cause.

12. Adjustments. If any change is made to the outstanding Common Stock or the capital structure of the Company, if required, the POs shall be adjusted or terminated in any manner as contemplated by Section 10(c) of the Plan.

13. Tax Liability and Withholding.

13.1 The Grantee shall be required to pay to the Company, and the Company shall have the right to deduct from any compensation paid to the Grantee pursuant to the Plan, the amount of any required withholding taxes in respect of the POs and to take all such other action as the Committee deems necessary to satisfy all obligations for the payment of such withholding taxes. The Committee may permit the Grantee to satisfy any federal, state or local tax withholding obligation by any of the following means, or by a combination of such means:

(a) tendering a cash payment;

(b) authorizing the Company to withhold shares of Common Stock from the shares of Common Stock otherwise issuable or deliverable to the Grantee as a result of the vesting of the POs; provided, however, that no shares of Common Stock shall be withheld with a value exceeding the minimum amount of tax required to be withheld by law; or

(c) delivering to the Company previously owned and unencumbered shares of Common Stock.

In addition, in the Company's sole discretion and consistent with the Company's rules (including, but not limited to, compliance with the Company's Policy on Insider Trading) and regulations, the Company may permit the Grantee to pay the withholding or other taxes due as a result of the vesting of the Grantee's POs by delivery (on a form acceptable to the Committee or the Company) of an irrevocable direction to a licensed securities broker to sell shares and to deliver all or part of the sales proceeds to the Company in payment of the withholding or other taxes.

13.2 Notwithstanding any action the Company takes with respect to any or all income tax, social insurance, payroll tax, or other tax-related withholding ("**Tax-Related Items**"), the ultimate liability for all Tax-Related Items is and remains the Grantee's responsibility and the Company (a) makes no representation or undertakings regarding the treatment of any Tax-Related Items in connection with the grant, vesting or settlement of the POs or the subsequent sale of any shares, and (b) does not commit to structure the POs to reduce or eliminate the Grantee's liability for Tax-Related Items.

14. Compliance with Law. The issuance and transfer of shares of Common Stock in connection with the POs shall be subject to compliance by the Company and the Grantee with all applicable requirements of federal and state securities laws and with all applicable requirements of any stock exchange on which the Company's shares of Common Stock may be listed. No shares of Common Stock shall be issued or transferred unless and until any then applicable requirements of state and federal laws and regulatory agencies have been fully complied with to the satisfaction of the Company and its counsel.

15. Notices. Any notice required to be delivered to the Company under this Agreement shall be in writing and addressed to the Secretary of the Company at the Company's principal corporate offices. Any notice required to be delivered to the Grantee under this Agreement shall be in writing and addressed to the Grantee at the Grantee's address as shown in the records of the Company. Either party may designate another address in writing (or by such other method approved by the Company) from time to time.

16. Governing Law. This Agreement will be construed and interpreted in accordance with the laws of the State of Delaware without regard to conflict of law principles.

17. Interpretation. Any dispute regarding the interpretation of this Agreement shall be submitted by the Grantee or the Company to the Committee for review. The resolution of such dispute by the Committee shall be final and binding on the Grantee and the Company.

18. POs Subject to Plan. This Agreement is subject to the Plan as approved by the Company's stockholders. The terms and provisions of the Plan as it may be amended from time to time are hereby incorporated herein by reference. In the event of a conflict between any term or provision contained herein and a term or provision of the Plan, the applicable terms and provisions of the Plan will govern and prevail.

19. Successors and Assigns. The Company may assign any of its rights under this Agreement. This Agreement will be binding upon and inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer set forth herein, this Agreement will be binding upon the Grantee and the Grantee's beneficiaries, executors, administrators and the person(s) to whom the POs may be transferred by will or the laws of descent or distribution.

20. Severability. The invalidity or unenforceability of any provision of the Plan or this Agreement shall not affect the validity or enforceability of any other provision of the Plan or this Agreement, and each provision of the Plan and this Agreement shall be severable and enforceable to the extent permitted by law.

21. Discretionary Nature of Plan. The Plan is discretionary and may be amended, cancelled or terminated by the Company at any time, in its discretion. The grant of the POs in this Agreement does not create any contractual right or other right to receive any POs or other Awards in the future. Future Awards, if any, will be at the sole discretion of the Company. Any amendment, modification, or termination of the Plan shall not constitute a change or impairment of the terms and conditions of the Grantee's employment with the Company.

22. Amendment. The Committee has the right to amend, alter, suspend, discontinue or cancel the POs, prospectively or retroactively; provided, that, no such amendment shall adversely affect the Grantee's material rights under this Agreement without the Grantee's consent.

23. Section 162(m). All payments under this Agreement are intended to constitute “qualified performance-based compensation” within the meaning of Section 162(m) of the Code. This Award shall be construed and administered in a manner consistent with such intent.

24. Section 409A. This Agreement is intended to comply with Section 409A of the Code or an exemption thereunder and shall be construed and interpreted in a manner that is consistent with the requirements for avoiding additional taxes or penalties under Section 409A of the Code. Notwithstanding the foregoing, the Company makes no representations that the payments and benefits provided under this Agreement comply with Section 409A of the Code and in no event shall the Company be liable for all or any portion of any taxes, penalties, interest or other expenses that may be incurred by the Grantee on account of non-compliance with Section 409A of the Code. To the extent required in order to avoid the imposition of any interest, penalties and additional tax under Section 409A of the Code, any shares deliverable as a result of the Grantee’s termination of Continuous Service will be delayed for six months and one day following such termination of Continuous Service, or if earlier, the date of the Grantee’s death, if the Grantee is deemed to be a “specified employee” as defined in Section 409A of the Code and as determined by the Company.

25. No Impact on Other Benefits. The value of the Grantee's POs is not part of his or her normal or expected compensation for purposes of calculating any severance, retirement, welfare, insurance or similar employee benefit.

26. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. Counterpart signature pages to this Agreement transmitted by facsimile transmission, by electronic mail in portable document format (.pdf), or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing an original signature.

27. Acceptance. The Grantee hereby acknowledges receipt of a copy of the Plan and this Agreement. The Grantee has read and understands the terms and provisions thereof, and accepts the POs subject to all of the terms and conditions of the Plan and this Agreement. The Grantee acknowledges that there may be adverse tax consequences upon the vesting or settlement of the POs or disposition of the underlying shares and that the Grantee has been advised to consult a tax advisor prior to such vesting, settlement or disposition.

28. Forfeiture and Company Right to Recover Fair Market Value of Shares Received Pursuant to POs. If, at any time, the Board or the Committee, as the case may be, in its sole discretion determines that any action or omission by the Grantee constituted (a) wrongdoing that contributed to any material misstatement in or omission from any report or statement filed by the Company with the U.S. Securities and Exchange Commission or (b) intentional or gross misconduct, (c) a breach of a fiduciary duty to the Company or a Subsidiary, (d) fraud or (e) non-compliance with the Company's Code of Conduct and Business Ethics, policies or procedures to the material detriment of the Company, then in each such case, commencing with the first year of the Company during which such action or omission occurred, the Grantee shall forfeit (without any payment therefor) up to 100% of any POs that have not been vested or settled and shall repay to the Company, upon notice to the Grantee by the Company, up to 100% of the Fair Market Value of the shares at the time such shares were delivered to the Grantee pursuant to the POs during and after such year. The Board or the Committee, as the case may be, shall determine in its sole discretion the date of occurrence of such action or omission, the percentage of the POs that shall be forfeited and the percentage of the Fair Market Value of the shares delivered pursuant to the POs that must be repaid to the Company.

[SIGNATURE PAGE FOLLOWS]

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

AUDIOEYE, INC.

By: _____
Name:
Title:

By: _____
Name:

EXHIBIT A

Performance Period

Each Performance Period shall commence on [January 1], and end on [December 31], of the same calendar year.

Performance Measures

The number of POs earned shall be determined for a Performance Period by reference to the Company's actual achievement against the following Performance:

I. Operational and Financial

(a) Targeted Cash Contract Bookings (as to [33.33%])

(b) Targeted Net Operating Cash Flow (as to [33.33]%)

(c) Board Defined Operations Goals (as to [33.33]%) for a Performance Period.

BUT ONLY IF:

II. Share Price

Share price of Common Stock for the [20 trading days] before and including the end of the Performance Period, is not less than _____ cents.

As used herein, Targeted Cash Contract Bookings and Targeted Net Operating Cash Flows are as set forth on Exhibit A-1. With regard to Board Defined Operations Goals, the Company’s board of directors or Committee shall in its sole discretion establish goals as to specific matters and amounts with respect to a Performance Period. For the [two] years of the Performance Period, the criteria are attached as Exhibit A-2

Determining POs Earned

The Grantee earns PO’s at the rate of [(a) 50% of Target Options if 85% of the Performance Goals have been achieved for a Performance Period (“**Threshold Options**”), (b) 100% of the Target Options if the Performance Goals have been achieved for a Performance Period (“**Target Options**”), and (c) 150% of the Target Options if 125% of the Performance Goals have been achieved for a Performance Period (“**Max Options**”)].

Exhibit 10.31

EXHIBIT A-1

MANAGEMENT FORECAST AND TARGET OPTION ACHIEVABLE

Management’s forecast of Cash Contract Bookings and Operating Cash Flow over the next [two] years along with Threshold and Max performance goals:

EXHIBIT A-2

DISCRETIONARY BONUS CRITERIA FOR __________________

Responsibilities ___________		
[Major Categories]	**[Representative Tasks]**	**Weight**
		100%

Exhibit 10.32

AUDIOEYE, INC.
STOCK OPTION AGREEMENT
FOR
[·]

Agreement

1. ***Grant of Option***. AudioEye, Inc., a Delaware corporation (the "Company"), hereby grants, as of the effective date of this Agreement specified on Schedule I hereof beside the caption "Date of Grant" ("Date of Grant"), to [·] (the "Optionee") an option (the "Option") to purchase an aggregate number of shares set forth on Schedule I hereof beside the caption "Number of Optioned Shares" (such number being subject to adjustment as provided in Section 10(c) of the Plan) of the Company's common stock, $.00001 par value per share (the "Shares"), at an exercise price per share set forth on Schedule I hereof beside the caption "Exercise Price" (such exercise price being subject to adjustment as provided in Section 10(c) of the Plan)(the "Exercise Price"). The Option shall be subject to the terms and conditions set forth herein. The Option is being issued pursuant to the AudioEye, Inc. [·] Incentive Compensation Plan (the "Plan"), which is incorporated herein for all purposes. This Option is designated on Schedule I as either an Incentive Stock Option or a Non-Qualified Stock Option. If designated on Schedule I hereof as an Incentive Stock Option, this Option is intended to qualify as an Incentive Stock Option as defined in Section 422 of the Code, and this Agreement shall be interpreted accordingly.

2. ***Definitions***. Unless otherwise provided herein, terms used herein that are defined in the Plan and not defined herein shall have the meanings attributed thereto in the Plan.

3. ***Exercise Schedule***. Except as otherwise provided in Sections 6 or 10 of this Agreement, or in the Plan, the Option is exercisable in installments as specified on Schedule I hereof beside the caption "Vesting", which shall be cumulative. To the extent that the Option has become exercisable with respect to a percentage of Shares as provided on Schedule I hereof beside the caption "Vesting" on each date (the "Vesting Date") upon which the Optionee shall be entitled to exercise the Option with respect to the percentage of Shares granted as indicated for each Vesting Date (provided that the Continuous Service of the Optionee continues through and on the applicable Vesting Date), the Option may thereafter be exercised by the Optionee, in whole or in part, at any time or from time to time prior to the expiration of the Option as provided herein. Except as otherwise specifically provided herein, there shall be no proportionate or partial vesting in the periods prior to each Vesting Date, and all vesting shall occur only on the appropriate Vesting Date. Upon the termination of the Optionee's Continuous Service, any unvested portion of the Option shall terminate and be null and void.

4. ***Method of Exercise***.

(a) ***General***. The vested portion of this Option shall be exercisable in whole or in part in accordance with the exercise schedule set forth in Section 3 hereof, by delivery, in person or by certified mail, of the form attached hereto as Exhibit A to the Secretary of the Company. The written notice shall be accompanied by payment of the Exercise Price. This Option shall be deemed to be exercised after both (a) receipt by the Company of such written notice accompanied by the Exercise Price and (b) arrangements that are satisfactory to the Committee in its sole discretion have been made for Optionee's payment to the Company of the amount, if any, that is necessary to be withheld in accordance with applicable Federal or state withholding requirements. No Shares shall be issued pursuant to the Option unless and until such issuance and such exercise shall comply with all relevant provisions of applicable law, including the requirements of any stock exchange upon which the Shares then may be traded.

(b) ***Cashless Exercise***. Notwithstanding the foregoing, the vested portion of this Option shall be exercisable in whole or in part in accordance with the exercise schedule set forth in Section 3 hereof, by delivery of the form attached hereto as Exhibit A, which shall state the election to exercise the Option through a cashless exercise (such exercise, a "Cashless Exercise"). Such written notice shall be signed by the Optionee and shall be delivered in person or by certified mail to the Secretary of the Company. Upon a Cashless Exercise, the Company shall issue to the Optionee the number of Shares determined as follows:

$$X = Y (A-B)/A$$

where:

X = the number of Shares to be issued to the Optionee.
Y = the number of Shares subject to Cashless Exercise.
A = the average of the closing sale price of the Shares for the five (5) trading days immediately prior to the date of exercise (if the Shares are not then publicly traded, then the fair market value per share of the Shares (as determined by the Company's Board of Directors)).
B = the Exercise Price.

5. ***Method of Payment***. Payment of the Exercise Price shall be by any of the following, or a combination thereof, at the election of the Optionee: (a) cash; (b) check; (c) to the extent permitted by the Committee or as provided on Schedule I hereof beside the caption "Permission to Pay with Shares", with Shares owned by the Optionee, or the withholding of Shares that otherwise would be delivered to the Optionee as a result of the exercise of the Option, or pursuant to the "cashless exercise" procedure set forth in Section 4(b), or (d) such other consideration or in such other manner as may be determined by the Committee in its absolute discretion.

6. ***Termination of Option***.

(a) ***General***. Any unexercised portion of the Option shall automatically and without notice terminate and become null and void at the time of the earliest to occur of the following:

(i) unless the Committee otherwise determines in writing in its sole discretion, three months after the date on which the Optionee's Continuous Service is terminated other than by reason of (A) by the Company or a Related Entity for Cause, (B) a Disability of the Optionee as determined by a medical doctor satisfactory to the Committee, or (C) the death of the Optionee;

(ii) immediately upon the termination of the Optionee's Continuous Service by the Company or a Related Entity for Cause;

(iii) twelve months after the date on which the Optionee's Continuous Service is terminated by reason of a Disability as determined by a medical doctor satisfactory to the Committee;

(iv) twelve months after the date of termination of the Optionee's Continuous Service by reason of the death of the Optionee; or

(v) the tenth anniversary of the date as of which the Option is granted (or, if a different date is shown on Schedule I hereof beside the caption "Termination Date", such date).

(b) ***Cancellation***. To the extent not previously exercised, (i) the Option shall terminate immediately in the event of (A) the liquidation or dissolution of the Company, or (B) any reorganization, merger, consolidation or other form of corporate transaction in which the Company does not survive or the Shares are exchanged for or converted into securities issued by another entity, or an affiliate of such successor or acquiring entity, unless the successor or acquiring entity, or an affiliate thereof, assumes the Option or substitutes an equivalent option or right pursuant to Section 10(c) of the Plan, and (ii) the Committee in its sole discretion may by written notice ("cancellation notice") cancel, effective upon the consummation of any transaction that constitutes a Change in Control, the Option (or portion thereof) that remains unexercised on such date. The Committee shall give written notice of any proposed transaction referred to in this Section 6(b) a reasonable period of time prior to the closing date for such transaction (which notice may be given either before or after approval of such transaction), in order that the Optionee may have a reasonable period of time prior to the closing date of such transaction within which to exercise the Option if and to the extent that it then is exercisable (including any portion of the Option that may become exercisable upon the closing date of such transaction). The Optionee may condition his exercise of the Option upon the consummation of a transaction referred to in this Section 6(b).

7. ***Transferability***. Unless (i) transfers are expressly permitted in the language appearing beside the caption "Expanded Rights to Transfer Option" on Schedule I hereof or (ii) otherwise determined by the Committee, the Option granted hereby is not transferable otherwise than by will or under the applicable laws of descent and distribution, and during the lifetime of the Optionee the Option shall be exercisable only by the Optionee, or the Optionee's guardian or legal representative. In addition, the Option shall not be assigned, negotiated, pledged or hypothecated in any way (whether by operation of law or otherwise), and the Option shall not be subject to execution, attachment or similar process. Upon any attempt to transfer, assign, negotiate, pledge or hypothecate the Option, or in the event of any levy upon the Option by reason of any execution, attachment or similar process contrary to the provisions hereof, the Option shall immediately become null and void. The terms of this Option shall be binding upon the executors, administrators, heirs, successors and assigns of the Optionee.

8. ***No Rights of Stockholders***. Neither the Optionee nor any personal representative (or beneficiary) shall be, or shall have any of the rights and privileges of, a stockholder of the Company with respect to any Shares purchasable or issuable upon the exercise of the Option, in whole or in part, prior to the date on which the Shares are issued.

9. ***Acceleration of Exercisability of Option***.

(a) ***Acceleration Upon Certain Terminations or Cancellations of Option***. This Option shall become immediately fully exercisable in the event that, prior to the termination of the Option pursuant to Section 6 hereof, (i) the Option is terminated pursuant to Section 6(b)(i) hereof, or (ii) the Company exercises its discretion to provide a cancellation notice with respect to the Option pursuant to Section 6(b)(ii) hereof.

(b) ***Acceleration Upon Change in Control***. This Option shall become immediately fully exercisable in the event that, prior to the termination of the Option pursuant to Section 6 hereof, and during the Optionee's Continuous Service, there is a "Change in Control", as defined in Section 9(b) of the Plan.

10. ***No Right to Continuous Service***. Neither the Option nor this Agreement shall confer upon the Optionee any right to Continuous Service with the Company or any Related Entity.

11. ***Information Confidential***. As partial consideration for the granting of the Option, the Optionee agrees with the Company to keep confidential all information and knowledge that the Optionee has relating to the manner and amount of the Optionee's participation in the Plan; provided, however, that such information may be disclosed as required by law and may be given in confidence to the Optionee's spouse, the Optionee's tax and financial advisors, or financial institutions to the extent that such information is necessary to secure a loan.

12. ***Interpretation / Provisions of Plan Control***. This Agreement is subject to all the terms, conditions and provisions of the Plan, including, without limitation, the amendment provisions thereof, and to such rules, regulations and interpretations relating to the Plan adopted by the Committee as may be in effect from time to time. If and to the extent that this Agreement conflicts or is inconsistent with the terms, conditions and provisions of the Plan, the Plan shall control, and this Agreement shall be deemed to be modified accordingly. The Optionee accepts the Option subject to all of the terms and provisions of the Plan and this Agreement. The undersigned Optionee hereby accepts as binding, conclusive and final all decisions or interpretations of the Committee upon any questions arising under the Plan and this Agreement, unless shown to have been made in an arbitrary and capricious manner.

13. ***Notices***. All notices, requests, demands, and other communications hereunder shall be in writing and shall be personally delivered, delivered by facsimile or courier service, or mailed, certified with first class postage prepaid to the address specified by the person who is to receive the same. Each such notice, request, demand, or other communication hereunder shall be deemed to have been given (whether actually received or not) on the date of actual delivery thereof, if personally delivered or delivered by facsimile transmission (if receipt is confirmed at the time of such transmission by telephone or facsimile-machine-generated confirmation), or on the third day following the date of mailing, if mailed in accordance with this Section, or on the day specified for delivery to the courier service (if such day is one on which the courier service will give normal assurances that such specified delivery will be made). Any notice, request, demand, or other communication given otherwise than in accordance with this Section shall be deemed to have been given on the date actually received. Each such notice, request, demand, or other communication hereunder shall be addressed, in the case of the Company, to the Company's Secretary at AudioEye, Inc., 5210 E. Williams Circle, Suite 750 Tucson, Arizona 85711, or if the Company should move its principal office, to such principal office, and, in the case of the Optionee, to the Optionee's last permanent address as shown on the Company's records, subject to the right of either party to designate some other address at any time hereafter in a notice satisfying the requirements of this Section. Any person entitled to any notice, request, demand, or other communication hereunder may waive the notice, request, demand, or other communication.

14. ***Section 409A.***

(a) It is intended that the Option awarded pursuant to this Agreement be exempt from Section 409A of the Code ("Section 409A") because it is believed that (i) the Exercise Price may never be less than the Fair Market Value of a Share on the Date of Grant and the number of shares subject to the Option is fixed on the original Date of Grant, (ii) the transfer or exercise of the Option is subject to taxation under Section 83 of the Code and Treas. Reg. 1.83-7, and (iii) the Option does not include any feature for the deferral of compensation other than the deferral of recognition of income until the exercise of the Option. The provisions of this Agreement shall be interpreted in a manner consistent with this intention, and the provisions of this Agreement may not be amended, adjusted, assumed or substituted for, converted or otherwise modified without the Optionee's prior written consent if and to the extent that the Company believes or reasonably should believe that such amendment, adjustment, assumption or substitution, conversion or modification would cause the award to violate the requirements of Section 409A. In the event that either the Company or the Optionee believes, at any time, that any benefit or right under this Agreement is subject to Section 409A, then the Committee may (acting alone and without any required consent of the Optionee) amend this Agreement in such manner as the Committee deems necessary or appropriate to be exempt from or otherwise comply with the requirements of Section 409A (including without limitation, amending the Agreement to increase the Exercise Price to such amount as may be required in order for the Option to be exempt from Section 409A).

(b) Notwithstanding the foregoing, the Company does not make any representation to the Optionee that the Option awarded pursuant to this Agreement is exempt from, or satisfies, the requirements of Section 409A, and the Company shall have no liability or other obligation to indemnify or hold harmless the Optionee or any Beneficiary for any tax, additional tax, interest or penalties that the Optionee or any Beneficiary may incur in the event that any provision of this Agreement, or any amendment or modification thereof or any other action taken with respect thereto, that either is consented to by the Optionee or that the Company reasonably believes should not result in a violation of Section 409A, is deemed to violate any of the requirements of Section 409A.

15. ***Incentive Stock Option Treatment***. If designated on Schedule I hereof as an Incentive Stock Option: (a) the terms of this Option shall be interpreted in a manner consistent with the intent of the Company and the Optionee that the Option qualify as an Incentive Stock Option under Section 422 of the Code; (b) if any provision of the Plan or this Agreement shall be impermissible in order for the Option to qualify as an Incentive Stock Option, then the Option shall be construed and enforced as if such provision had never been included in the Plan or the Option; and (c) if and to the extent that the number of Options granted pursuant to this Agreement exceeds the limitations contained in Section 422 of the Code on the value of Shares with respect to which this Option may qualify as an Incentive Stock Option, this Option shall be a Non-Qualified Stock Option.

16. ***Section Headings***. The Section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

17. ***Governing Law and Venue***. THIS AGREEMENT SHALL AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE WITHOUT GIVING EFFECT TO ANY CHOICE OR CONFLICT OF LAW PROVISION OR RULE (WHETHER OF THE STATE OF DELAWARE OR ANY OTHER JURISDICTION) THAT WOULD CAUSE THE APPLICATION OF THE LAWS OF ANY JURISDICTION OTHER THAN THE STATE OF DELAWARE. EACH PARTY HEREBY IRREVOCABLY SUBMITS TO THE PERSONAL JURISDICTION OF THE COURTS LOCATED IN THE STATE OF ARIZONA AND AGREES THAT ANY LITIGATION BETWEEN THE PARTIES WILL BE FILED IN COURTS LOCATED IN TUSCON, ARIZONA.

18. ***Arbitration***. By execution hereof, the parties hereto expressly agree that upon the request of any party, whether made before or after the institution of any legal proceeding, any action, dispute, claim or controversy of any kind, whether in contract or in tort, statutory or common law, legal or equitable, arising between the parties in any way arising out of any of the provisions contained in this Agreement shall be resolved by binding arbitration administered by the American Arbitration Association (the "AAA") and in Tucson, Arizona. Such arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the AAA and, to the maximum extent applicable, the Federal Arbitration Act (Title 9 of the United States Code) except as otherwise specified herein. Judgment upon the award rendered by the arbitrator may be entered in any court having competent jurisdiction. The arbitrator shall resolve all disputes in accordance with the applicable substantive law. A single arbitrator shall be chosen and shall decide the dispute, unless the amount sought in the dispute exceeds $100,000, in which case a panel of three arbitrators shall decide the dispute. In all arbitration proceedings in which the amount of any award exceeds $100,000, in the aggregate, the arbitrator(s) shall make specific, written findings of fact and conclusions of law. In all arbitration proceedings in which the amount of any award exceeds $100,000, in the aggregate, the parties shall have, in addition to the limited statutory right to seek a vacation or modification of an award pursuant to applicable law, the right to vacation or modification of any award that is based, in whole or in part, on an incorrect or erroneous ruling of law by appeal to an appropriate court having jurisdiction; provided, however, that any such application for a vacation or modification of such an award based on an incorrect ruling of law must be filed in a court having jurisdiction over the dispute within 15 days from the date the award is rendered. The findings of fact of the arbitrator(s) shall be binding on all parties and shall not be subject to further review except as otherwise allowed by applicable law. No provision of this Agreement nor the exercise of any rights hereunder shall limit the right of any party, and any party shall have the right during any dispute, to seek, use, and employ ancillary or preliminary remedies, such as injunctive relief (including, without limitation, specific performance), from a court having jurisdiction before, during, or after the pendency of any arbitration. The institution and maintenance of any action for judicial relief or pursuit of provisional or ancillary remedies shall not constitute a waiver of the right of any party to submit any dispute to arbitration nor render inapplicable the compulsory arbitration provisions hereof.

19. ***Attorney's Fees***. If any action is brought to enforce or interpret the terms of this Agreement (including through arbitration), the prevailing party shall be entitled to reasonable attorneys' fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.

20. ***Counterparts***. This Agreement may be executed in any number of counterparts and shall be effective when each party hereto has executed at least one counterpart, with the same effect as if all signing parties had signed the same document. All counterparts will be construed together and evidence only one agreement, which, notwithstanding the actual date of execution of any counterpart, shall be deemed to be dated the day and year first written above. In making proof of this Agreement, it shall not be necessary to account for a counterpart executed by any party other than the party against whom enforcement is sought or to account for more than one counterpart executed by the party against whom enforcement is sought.

21. ***Execution by Facsimile***. The manual signature of any party hereto that is transmitted to any other party by facsimile or in portable document format (PDF) shall be deemed for all purposes to be an original signature.

Remainder of page intentionally left blank; signature page follows.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the [·] day of [·].

COMPANY:

AudioEye, Inc.

By: _____
Name:
Title:

The Optionee acknowledges receipt of a copy of the Plan and represents that he or she has reviewed the provisions of the Plan and this Agreement in their entirety, is familiar with and understands their terms and provisions, and hereby accepts this Option subject to all of the terms and provisions of the Plan and this Agreement. The Optionee further represents that he or she has had an opportunity to obtain the advice of counsel prior to executing this Agreement.

Dated: _____

OPTIONEE:

_____
Name: [·]

Address: [·]
[·]

SCHEDULE I

NAME OF OPTIONEE:	[·]
DATE OF GRANT:	[·]
TYPE OF OPTION:	[·]
NUMBER OF OPTIONED SHARES:	[·]
EXERCISE PRICE:	$[·] per Share
TERMINATION DATE:	5th year anniversary of Date of Grant
VESTING:	(i) 50% of the shares subject to the Option (the "***Option Shares***") shall vest in equal monthly installments beginning on [·] and continuing on the first day of each month through [·]; (ii) 25% of the Option Shares shall vest in equal monthly installments beginning on [·] and continuing on the first day of each month through [·]; and (iii) 25% of the Option Shares shall vest in equal monthly installments beginning on [·] and continuing on the first day of each month, through [·], in each case, subject to the Continuous Service (as defined in the Plan) of the holder of such Option on such vesting date.
PERMISSION TO PAY WITH SHARES:	__ Granted _____ Denied
EXPANDED RIGHTS TO TRANSFER OPTION:	None

Exhibit A

☐ Incentive Stock Option
☐ Nonstatutory Stock Option

Participant: _____

Date: _____

STOCK OPTION EXERCISE NOTICE

AudioEye, Inc.
Attention: Todd Bankofier, Chief Executive Officer
Address: 5210 East Williams Circle, Suite 750, Tucson, Arizona 85711

Ladies and Gentlemen:

1. **Option**. I was granted an option (the "***Option***") to purchase shares of the common stock (the "***Shares***") of AudioEye, Inc. (the "***Company***") pursuant to the Company's [YEAR] Incentive Compensation Plan (the "***Plan***") and my Stock Option Agreement (the "***Option Agreement***") as follows:

Date of Grant: _____

Number of Option Shares: _____

Exercise Price per Share: $ _____

2. Exercise of Option. I hereby elect to exercise the Option to purchase the following number of Shares, all of which are Vested Shares, in accordance with the Option Agreement:

Total Shares Purchased: _____

Total Exercise Price (Total Shares X Price per Share) _____

3. Payments. I enclose payment in full of the total exercise price for the Shares in the following form(s), as authorized by my Option Agreement:

☐ Cash: $ _____

☐ Check: $ _____

☐ Cashless Exercise: N/A

4. Tax Withholding. I authorize payroll withholding and otherwise to make adequate provision for the federal, state, local and foreign tax withholding obligations of the Company, if any, in connection with the Option. If I am exercising a Nonstatutory Stock Option, I enclose payment in full of my withholding taxes, if any, as follows:

☐ Cash: $ _____

☐ Check: $ _____

5. Participant Information.

My address is: _____

_____

My Social Security Number is: _____

6. Notice of Disqualifying Disposition. If the Option is an Incentive Stock Option, I agree that I will promptly notify the Chief Executive Officer or other officer as designated by the Company if I transfer any of the Shares within one (1) year from the date I exercise all or part of the Option or within two (2) years of the Date of Grant.

7. Binding Effect. I agree that the Shares are being acquired in accordance with and subject to the terms, provisions and conditions of the Option Agreement and the Plan, to all of which I hereby expressly assent. This Agreement shall inure to the benefit of and be binding upon my heirs, executors, administrators, successors and assigns.

8. Transfer. I understand and acknowledge that the Shares have not been registered under the Securities Act of 1933, as amended (the "***Securities Act***"), and that consequently the Shares must be held indefinitely unless they are subsequently registered under the Securities Act, an exemption from such registration is available, or they are sold in accordance with Rule 144 or Rule 701 under the Securities Act. I further understand and acknowledge that the Company is under no obligation to register the Shares. I understand that the certificate or certificates evidencing the Shares will be imprinted with legends which prohibit the transfer of the Shares unless they are registered or such registration is not required in the opinion of legal counsel satisfactory to the Company.

I am aware that Rule 144 under the Securities Act, which permits limited public resale of securities acquired in a nonpublic offering, is not currently available with respect to the Shares and, in any event, is available only if certain conditions are satisfied. I understand that any sale of the Shares that might be made in reliance upon Rule 144 may only be made in limited amounts in accordance with the terms and conditions of such rule and that a copy of Rule 144 will be delivered to me upon request.

I understand that I am purchasing the Shares pursuant to the terms of the Plan and my Option Agreement, copies of which I have received and carefully read and understand.

Very truly yours,

_____

(Signature)

Receipt of the above is hereby acknowledged.

AUDIOEYE, INC.

_____

By: Todd Bankofier
Title: Chief Executive Officer

Dated: _____

Exhibit 10.33

THIS NOTE AND THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "***ACT***"), AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED OR HYPOTHECATED UNLESS THERE IS AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT COVERING SUCH SECURITIES, THE SALE IS MADE IN ACCORDANCE WITH RULE 144 UNDER THE ACT, OR THE COMPANY RECEIVES AN OPINION OF COUNSEL FOR THE HOLDER OF THESE SECURITIES REASONABLY SATISFACTORY TO THE COMPANY STATING THAT SUCH SALE, TRANSFER, ASSIGNMENT OR HYPOTHECATION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SUCH ACT.

CONVERTIBLE PROMISSORY NOTE

Note No. PM-31

$50,000 Date of Issuance: September 26, 2018

1. FOR VALUE RECEIVED, AudioEye, Inc., a Delaware corporation (the "***Company***"), promises to pay to Equity Trust Custodian, FBO Alexandre Zyngier IRA (the "***Holder***"), or its registered assigns, the principal sum of $50,000, or such lesser amount as shall then equal the outstanding principal amount hereof, together with accrued and unpaid interest thereon, each due and payable on the date and in the manner set forth below.

This Convertible Promissory Note (this "***Note***") is issued pursuant to the Note and Warrant Purchase Agreement, dated as of October 9, 2015, executed by the Company, the Holder, and the other parties thereto (as the same may from time to time be amended, modified, extended, renewed or restated, the "***Purchase Agreement***"). In the event of any conflict between the provisions of this Note and the provisions of the Purchase Agreement, the provisions of the Purchase Agreement shall govern. Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Purchase Agreement.

2. Repayment.

(i) *On Maturity Date.* If not converted pursuant to Section 6 herein, all principal, interest and other charges and amounts to be paid hereunder shall be due and payable, in full in one lump sum, on the earliest of (a) October 9, 2018 (the "***Maturity Date***") or (b) the date such amounts become due and payable after the occurrence of an Event of Default in accordance with Section 11 herein. In the event of any conversion pursuant to Section 6 herein, all interest shall be so converted and shall not be payable in cash.

(ii) *Upon Consummation of Change of Control.* If a Change of Control occurs prior to the earlier of the consummation of an Equity Financing (as defined below) and the Maturity Date, then this Note shall be repaid upon the consummation of the Change of Control in an amount equal to the product of (A) 1.4 and (B) the outstanding principal amount and all accrued and unpaid interest on this Note. "***Change of Control***" shall mean either (i) the acquisition of the Company by one or more persons or entities by means of any transaction or series of transactions to which the Company is party (including any stock acquisition, reorganization, merger or consolidation, and including any sale or issuance of stock for capital raising purposes) other than a transaction or series of transactions in which the holders of the voting securities of the Company outstanding immediately prior to such transaction continue to retain, as a result of shares of capital stock in the Company held by such holders prior to such transaction, at least a majority of the total voting power represented by the voting securities of the Company or such surviving entity outstanding immediately after such transaction or series of transactions; or (ii) a sale of all or substantially all of the assets of the Company.

3. Interest. Until this Note is converted pursuant to Section 6 herein, payable-in-kind interest (the "***PIK Interest***") shall accrue at a rate of ten percent (10%) per annum on the outstanding principal balance of this Note commencing on the date hereof, and shall continue accruing until repayment or conversion of all amounts due hereunder. PIK Interest shall be due and payable on the Maturity Date and shall be calculated on the basis of a 365-day year for the actual number of days elapsed.

4. Prepayment. The Company may not prepay this Note prior to the Maturity Date without the consent of the Holder.

5. Payment Process. All payments to be made by the Company "(other than Equity Securities or, upon irrevocable election prior to such conversion, Special Warrants, as defined below, issued upon conversion of this Note in accordance with Section 6) shall be made in cash in immediately available funds, without set-off, recoupment or counterclaim and free and clear of and without any deduction of any kind for any taxes, levies, fees, deductions, withholdings, restrictions or conditions of any nature.

6. Waivers. The Company hereby waives demand, notice, presentment, protest and notice of dishonor.

7. Conversion. If the Company issues or sells equity securities of the Company (excluding convertible debt securities) ("***Equity Securities***") in a single transaction or series of related transactions for cash of at least $1,000,000 (excluding the conversion of the Notes and excluding the shares of common stock, $0.00001 par value per share, of the Company ("***Common Stock***") to be issued upon exercise of the Warrants dated as of the date hereof and issued in connection with the Purchase Agreement (the "***Warrants***")) on or before the Maturity Date (the "***Equity Financing***"), all of the unpaid principal of this Note plus accrued interest on this Note shall be automatically converted at the closing of the Equity Financing into (a) a number of shares of the same class or series of Equity Securities as are issued or sold by the Company in such Equity Financing (or a class or series of Equity Securities identical in all respects to and ranking pari passu with the class or series of Equity Securities issued and sold in such Equity Financing) (such persons that have not elected to receive Special Warrants, the "Default Equity Converting Holders") or (b) if irrevocably elected prior to the closing of the Equity Financing, a warrant, in substantially the form attached hereto as Exhibit A (the "***Special Warrant***"), to purchase, at an exercise price of $0.001 per share, a number of shares of the same class or series of Equity Securities as are issued and sold by the Company in such Equity Financing (or a class or series of Equity Securities identical in all respects to and ranking pari passu with the class or series of Equity Securities issued and sold in such Equity Financing) (such persons that elected to receive Special Warrants, the "***Warrant Converting Holders***"), which number of shares (in the case of Default Equity Converting Holders) or shares issuable upon the exercise of the Special Warrant (in the case of Warrant Converting Holders) shall be determined by dividing (i) the principal and accrued and unpaid interest amount of the Note by (ii) 60% of the price per share at which such Equity Securities are issued and sold in such Equity Financing (the "***Conversion Shares***"); provided that, notwithstanding the foregoing, in the case of Warrant Converting Holders, the exercise of the Special Warrant (and the maximum number of Conversion Shares that the Holder may acquire) shall be subject in all respects to the limitations on exercise set forth in the Special Warrant, including Section 9 thereof. The following Equity Securities shall not be deemed to be issued or sold as part of the Equity Financing: (i) Common Stock or options to purchase Common Stock issued, sold or granted pursuant to the Company's equity incentive plans; or (ii) securities of the Company issued pursuant to the exercise of any convertible or exercisable securities outstanding as of the date of this Note (the securities set forth in clauses (i) and (ii), collectively, the "***Excluded Securities***"). In the event the Company does not complete an Equity Financing prior to the Maturity Date, the holders of a majority in interest of the aggregate outstanding principal amount of the Notes may elect to cause all Notes to convert into either shares of capital stock of the Company or, in the case of persons who have irrevocably elected warrants, warrants to purchase shares of capital stock of the Company on such terms as are agreed to by such holders and the Company; provided, however, that the restrictions on exercise of such warrants shall be no less than those set forth in the Special Warrant, including Section 9 thereof."

8. Affirmative Covenants. Until all amounts outstanding under this Note have been paid in full, or the Note has been converted, unless the Holders of a majority in interest of the outstanding principal under the Notes consent otherwise, the Company shall:

(a) during normal business hours, permit the Holder to visit and inspect the Company's properties, to examine its books of account and records and to discuss the Company's affairs, finances and accounts with its officers, all at such times as reasonably may be requested by the Holder;

(b) as soon as possible and in any event within two (2) business days after it becomes aware that a Default or an Event of Default has occurred, notify the Holder in writing of the nature and extent of such Default or Event of Default and the action, if any, it has taken or proposes to take with respect to such Default or Event of Default; and

(c) upon the request of the Holder, promptly execute and deliver such further instruments and do or cause to be done such further acts as may be necessary or advisable to carry out the intent and purposes of the Note.

9. Negative Covenants. Until all amounts outstanding under this Note have been paid in full, or the Note has been converted, without the consent of the Holders of a majority in interest of the outstanding principal under the Notes, the Company shall not:

(a) incur any indebtedness in an amount equal to or greater than $250,000;

(b) (i) sell, transfer or otherwise dispose of any of the Company's properties, assets and rights to any person except in the ordinary course of business, (ii) enter into any merger, combination, reorganization, recapitalization or consolidation of the Company, or (iii) issue, sell or transfer any Equity Securities to any person in a transaction or series of transactions, in which the equity holders of the Company immediately prior to such transaction or first of such series of transaction, no longer own a majority of the Company's or any successor entity's issued and outstanding Equity Securities immediately after such transaction or series of such transactions.

(c) make any loans, investments, capital expenditures or acquisitions in an amount equal to or greater than $250,000; or

(d) liquidate, wind-up or dissolve or instruct or grant resolutions to any liquidator of the Company.

10. Mechanics and Effect of Conversion.

(a) Upon the conversion of this Note in accordance with Section 6 hereof, the Company shall be forever released from all its obligations and liabilities under this Note. In connection with conversion of this Note into Special Warrants pursuant to Section 6 by a Warrant Converting Holder, the Company shall execute and deliver the Special Warrant to such Warrant Converting Holder.

(b) In the case of Default Equity Converting Holders, no fractional Common Shares shall be issued upon the conversion of this Note in full. In lieu of the Company issuing any fractional Common Shares to the Holder, Company shall pay to the Holder the amount of outstanding principal or interest that is not so converted."

11. Events of Default. The occurrence of any of the following events shall constitute an "***Event of Default***" hereunder (and any event that with the giving of notice or passage of time would constitute an Event of Default shall be referred to as a "***Default***"):

(a) the failure of the Company to make any payment of principal or interest on this Note when due, whether at maturity, upon acceleration or otherwise, or the failure of the Company to convert the principal and interest on this Note to Equity Securities or the Special Warrant in accordance with Section 6;

(b) (i) the Company or a subsidiary of the Company (a "***Subsidiary***") makes a determination to discontinue (or does cease to conduct) business, makes an assignment for the benefit of creditors or admits in writing its inability to pay its debts generally as they become due; (ii) an order, judgment or decree is entered adjudicating the Company or a Subsidiary as bankrupt or insolvent; (iii) any order for relief with respect to the Company or a Subsidiary is entered under the U.S. Bankruptcy Code or any other applicable bankruptcy or insolvency law; (iv) the Company or a Subsidiary petitions or applies to any tribunal for the appointment of a custodian, trustee, receiver or liquidator of the Company or a Subsidiary or of any substantial part of the assets of the Company or a Subsidiary commences any proceeding relating to it under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction; or (v) any such petition or application in (iv) above is filed, or any such proceeding is commenced, against the Company or a Subsidiary and either (x) the Company or such Subsidiary by any act indicates its approval thereof, consents thereto or acquiesces therein or (y) such petition, application or proceeding is not dismissed within sixty (60) days;

(c) unless waived by the Holders of a majority in interest of the outstanding principal under the Notes, if the Company defaults in the due and punctual observance or performance of any of its covenants or other obligations contained in this Note, the Purchase Agreement or Warrants, and such failure continues for more than sixty (60) days after delivery of written notice thereof;

(d) any representation or warranty of the Company made in the Purchase Agreement or Warrants shall be incorrect when made in any material respect; or

(e) any of the Company's indebtedness for borrowed money is accelerated as a result of a default or breach under any agreement for such borrowed money, including but not limited to loan agreements, or material breach under any real property lease agreements and capital equipment lease agreements, by which the Company is bound or obligated, which breach is not cured by the Company within sixty (60) days of delivery of written notice thereof.

If an Event of Default described in (b) above shall occur, the principal of and accrued interest on the Note shall become immediately due and payable without any declaration or other act on the part of the Holder. Immediately upon the occurrence of any Event of Default described in (b) above, or upon failure to pay this Note on the Maturity Date, the Holder, without any notice to the Company, which notice is expressly waived by the Company, may proceed to protect, enforce, exercise and pursue any and all rights and remedies available to the Holder under this Note, or at law or in equity.

If any other Event of Default shall occur for any reason, whether voluntary or involuntary, and be continuing, the Holder may by notice to the Company declare all or any portion of the outstanding principal amount of the Note to be due and payable, whereupon the full unpaid amount of the Note which shall be so declared due and payable shall be and become immediately due and payable without further notice, demand or presentment.

If an Event of Default occurs, the Company shall pay to the Holder the reasonable attorneys' fees and disbursement and all other reasonable out-of-pocket costs incurred by the Holder in order to collect amounts due and owing under this Note or otherwise to enforce the Holder's rights and remedies hereunder.

12. Successors and Assigns. Subject to the restrictions on transfer described in Section 13 below, the rights and obligations of Company and the Holder of this Note shall be binding upon and benefit the successors, assigns, heirs, administrators and transferees of the parties.

13. Modification; Waiver. Any term of this Note may be amended or waived with the written consent of the Company and the Holders of a majority of the outstanding principal under the Notes.

14. Transfer of this Note.

(a) This Note may not be transferred in violation of any restrictive legend set forth hereon. Each new Note issued upon transfer of this Note shall bear a legend as to the applicable restrictions on transferability in order to ensure compliance with the Securities Act, unless such legend is removed in accordance with Section 13(b). The Company may issue stop transfer instructions to its transfer agent in connection with such restrictions. Prior to presentation of this Note for registration of transfer, Company shall treat the registered holder hereof as the owner and holder of this Note for the purpose of receiving all payments of principal and interest hereon and for all other purposes whatsoever, whether or not this Note shall be overdue and Company shall not be affected by notice to the contrary. Notwithstanding anything to the contrary, this Note may be transferred from the Holder to an affiliate of the Holder, to a family member of the Holder, or to any trust, partnership, limited liability company or custodianship established for estate-planning purposes for the primary benefit of the Holder or his or her family members.

(b) The restrictive legend set forth on the Note shall be removed and the Company shall issue a Note without such legend or any other legend to the Holder if (i) such Note or the Conversion Shares are sold pursuant to an effective registration statement under the Securities Act (provided that the Holder agrees to only sell such Note or Conversion Shares during such time that the registration statement is effective and not withdrawn or suspended, and only as permitted by the registration statement), (i) such Note or Conversion Shares are sold or transferred pursuant to, and in accordance with all requirements of, Rule 144 (including, if applicable, the volume, manner-of-sale and notice filing provisions of Rule 144), or (iii) such Note or Conversion Shares are eligible for sale under Rule 144, without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such securities and without volume or manner-of-sale restrictions. The Company shall bear all costs incurred by it or a Holder relating to the removal of the legend in accordance with this Section 13(b), provided that the Company shall not be liable for any transfer taxes relating to the issuance of a new Note in the name of any person other than the relevant Holder and its affiliates.

For the purposes of this Section 13, the term "transfer" shall include any sale, pledge, gift, assignment, or other disposition of this Note or securities into which such Note may be converted.

15. Assignment by the Company. Neither this Note nor any of the rights, interests or obligations hereunder may be assigned, by operation of law or otherwise, in whole or in part, by the Company, without the prior written consent of the Holders of a majority in interest of the outstanding principal under the Notes.

16. Treatment of Note. To the extent permitted by generally accepted accounting principles, Company will treat, account and report the Note as debt and not equity for accounting purposes and with respect to any returns filed with federal, state or local tax authorities.

17. Notices, etc. All notices, requests, consents, and other communications under this Note shall be in writing and shall be deemed delivered (i) two business days after being sent by registered or certified mail, return receipt requested, postage prepaid or (ii) one business day after being sent via a reputable nationwide overnight courier service guaranteeing next business day delivery, in each case to the intended recipient as set forth below:

(i) if to the Holder its address set forth in the Purchase Agreement; and

(ii) if to the Company at:

AudioEye, Inc.
5210 E Williams Cir, Tucson, AZ 85711
Attention: President

With a copy which shall not constitute notice to:

DLA Piper LLP (US)
401 Congress Avenue, Suite 2500
Austin, Texas 78701
Attention: Paul Hurdlow
facsimile (512) 457-7001

18. Expenses. In the event of any default hereunder, the Company shall pay all reasonable attorneys' fees and court costs incurred by Holder in enforcing and collecting this Note.

19. Governing Law. This Note and all actions arising out of or in connection with this Note shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflicts of law provisions of the State of Delaware or of any other state. In connection with any dispute which may arise hereunder, the parties hereby irrevocably submit to the exclusive jurisdiction of any court located in Delaware and each party waives any objection to the laying of venue therein.

20. Savings. No part of this Note or any agreement entered into in connection herewith, nor any charge or receipt by Holder, is supposed to permit Holder to impose interest or other amounts in excess of lawful amounts, and shall be automatically constrained by this provision. If an excess occurs, Holder will apply it as a credit or otherwise refund it and the rate or amount involved will automatically be reduced to the maximum lawful rate or amount. To the extent permitted by law, for purposes of determining Holder's compliance with law, Holder may calculate charges by amortizing, prorating, allocating and spreading.

21. Powers and Remedies Cumulative; Delay or Omission Not Waiver of Event of Default. No right or remedy herein conferred upon or reserved to the Holder is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy. No delay or omission of the Holder to exercise any right or power accruing upon any Event of Default occurring and continuing as aforesaid shall impair any such right or power or shall be construed to be a waiver of any Event of Default or an acquiescence therein; and every power and remedy given by this Note or by law may be exercised from time to time, and as often as shall be deemed expedient, by the Holder.

22. Miscellaneous. The parties hereto hereby waive presentment, demand, notice, protest and all other demands and notices in connection with the delivery, acceptance, performance and enforcement of or any default under this Note, except as specifically provided herein, and assent to extensions of the time of payment, or forbearance or other indulgence without notice. The Section headings herein are for convenience only and shall not affect the construction hereof. Any provision of this Note which is illegal, invalid, prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such illegality, invalidity, prohibition or unenforceability without invalidating or impairing the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. This Note shall bind the Company and its successors and permitted assigns. The rights under and benefits of this Note shall inure to the Holder and its successors and assigns.

IN WITNESS WHEREOF, the Company has caused this Note to be issued as of the date first written above.

COMPANY:

AUDIOEYE, INC.

By: /s/ Todd A. Bankofier
Name: Todd A Bankofier
Title: Chief Executive Officer

IN WITNESS WHEREOF, the Company has caused this Note to be issued as of the date first written above.

HOLDER:

If Entity:

Entity Name: Equity Trust Custodian, FBO Alexandre Zyngier IRA

By: /s/ Alexandre Zyngier

Name: Alexandre Zyngier

Title: _____

If Individual:

Name: _____

Signature: _____

Exhibit 10.33

ANNEX I

EXHIBIT A
FORM OF SPECIAL WARRANT

THIS WARRANT AND THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "***ACT***"), AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED OR HYPOTHECATED UNLESS THERE IS AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT COVERING SUCH SECURITIES, THE SALE IS MADE IN ACCORDANCE WITH RULE 144 UNDER THE ACT, OR THE COMPANY RECEIVES AN OPINION OF COUNSEL FOR THE HOLDER OF THESE SECURITIES REASONABLY SATISFACTORY TO THE COMPANY STATING THAT SUCH SALE, TRANSFER, ASSIGNMENT OR HYPOTHECATION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SUCH ACT.
Warrant No. [ ]

AUDIOEYE, INC.
WARRANT

This Warrant (this "***Warrant***") is issued as of [_____], by AudioEye, Inc., a Delaware corporation (the "***Company***"), to [_____] (the "***Holder***") pursuant to Section 6 of that certain Secured Convertible Promissory Note No. [____], dated as of October [__], 2015, as amended by that certain First Amendment to Secured Convertible Promissory Note, dated as of April [●], 2016 (as so amended, the "***Note***"), issued by the Company to the Holder. Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Note.

1. Number of Warrant Shares; Exercise Price. Subject to the terms and conditions set forth herein, the Holder is entitled, upon surrender of this Warrant at the principal office of the Company, to purchase from the Company [_____] shares of [_____][1] $_____ par value per share (such class or series of stock, the "***Applicable Class***") of the Company (as adjusted from time to time, "***Warrant Shares***") at a price of $0.001 per Warrant Share (as adjusted for splits and the like, the "***Exercise Price***").

2. Exercise Period. This Warrant is exercisable as to the Warrant Shares covered hereby during the period commencing on the date hereof and continuing until 5:00 p.m. Arizona Time on [_____] (the "***Expiration Date***").

3. Method of Exercise. Subject to Sections 1, 2, 9 and 10 and the other terms and conditions of this Warrant, the Holder may exercise, in whole or in part, the purchase rights evidenced by this Warrant. Such exercise shall be effected by the surrender of this Warrant, together with a duly executed copy of the form of exercise notice attached hereto as Annex I (the "***Exercise Notice***"), to the secretary of the Company at its principal office, accompanied by either (x) the payment to the Company by cash, check or wire transfer of an amount equal to the product of (i) the Exercise Price multiplied by (ii) the number of Warrant Shares being purchased (such product, the "***Purchase Price***") or (y) the payment of the Purchase Price through a "cashless exercise" in accordance with Section 4. The date on which the Exercise Notice is delivered to the secretary of the Company is an "***Exercise Date***." Each aggregate exercise amount paid shall be rounded up to the nearest $0.01.

[1] NTD: Number and type of securities to be determined in accordance with the terms of Section 6 of the Note.

4. Cashless Exercise. In the event the Holder elects to satisfy its obligation to pay the Purchase Price through a "cashless" exercise, the Company shall issue to the Holder the number of Warrant Shares determined as follows:

X= Y [(A-B)/A]

where:

"X" equals the number of Warrant Shares to be issued to the Holder;

"Y" equals the total number of Warrant Shares with respect to which this Warrant is being exercised;

"A" equals the arithmetic average of the Closing Sale Prices of the shares of the Applicable Class for the five (5) consecutive Trading Days ending on the date immediately preceding the Exercise Date (the "***Fair Market Value***"); and

"B" equals the Exercise Price then in effect for the applicable Warrant Shares at the time of such exercise.

For purposes of this Warrant, "***Closing Sale Price***" means, for any security as of any date, the last trade price for such security on the Principal Trading Market for such security, as reported by Bloomberg Financial Markets, or, if such Principal Trading Market begins to operate on an extended hours basis and does not designate the last trade price, then the last trade price of such security prior to 4:00 P.M., New York City time, as reported by Bloomberg Financial Markets, or if the foregoing do not apply, the last trade price of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg Financial Markets, or, if no last trade price is reported for such security by Bloomberg Financial Markets, the average of the bid prices, or the ask prices, respectively, of any market makers for such security as reported in the "pink sheets" by OTC Markets. "***Trading Day***" means a day on which exchanges in the United States are open for the buying and selling of securities. "***Principal Trading Market***" means the OTC Bulletin Board, the OTC Markets, NASDAQ or a national securities exchange. If the Closing Sale Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Sale Price of such security on such date shall be the fair market value as determined in good faith by the Board of Directors of the Company. The Board of Directors' determination shall be binding upon all parties absent demonstrable error. All such determinations shall be appropriately adjusted for any stock dividend, stock split, stock combination or other similar transaction during the applicable calculation period.

5. Rule 144. For purposes of Rule 144 promulgated under the Securities Act of 1933, as amended (the "***Act***"), it is intended, understood and acknowledged that the Warrant Shares issued in a "cashless exercise" transaction shall be deemed to have been acquired by the Holder, and the holding period for the Warrant Shares shall be deemed to have commenced, on the Original Issue Date of this Warrant (provided that the Commission continues to take the position that such treatment is proper at the time of such exercise).

6. Certificates for Warrant Shares. If the shares of the Company are certificated, upon the exercise of the purchase rights evidenced by this Warrant, one or more certificates for the number of Warrant Shares so purchased shall be issued and delivered to the Holder as soon as practicable thereafter, with a legend substantially similar to the legend set forth below (in addition to any legend required under applicable state securities laws):

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER UNITED STATES FEDERAL OR STATE SECURITIES LAWS AND MAY NOT BE OFFERED FOR SALE, SOLD, OR OTHERWISE TRANSFERRED OR ASSIGNED FOR VALUE, DIRECTLY OR INDIRECTLY, NOR MAY THE SECURITIES BE TRANSFERRED ON THE BOOKS OF THE COMPANY, WITHOUT REGISTRATION OF SUCH SECURITIES UNDER ALL APPLICABLE UNITED STATES FEDERAL OR STATE SECURITIES LAWS OR COMPLIANCE WITH AN APPLICABLE EXEMPTION THEREFROM, SUCH COMPLIANCE, AT THE OPTION OF THE COMPANY, TO BE EVIDENCED BY AN OPINION OF SHAREHOLDER'S COUNSEL, IN A FORM ACCEPTABLE TO THE COMPANY, THAT NO VIOLATION OF SUCH REGISTRATION PROVISIONS WOULD RESULT FROM ANY PROPOSED TRANSFER OR ASSIGNMENT."

Upon any partial exercise of this Warrant, the Company shall forthwith issue and deliver to the Holder a new warrant or warrants of like tenor as this Warrant for the remaining portion of the Warrant Shares for which this Warrant may still be exercised.

The legend set forth in this Section 6 shall be removed and the Company shall issue a certificate (or issue in an uncertificated form) without such legend or any other legend to the Holder if (a) such Warrants or Warrant Shares are sold pursuant to an effective registration statement under the Act (provided that the Holder agrees to only sell such Warrant or Warrant Shares during such time that the registration statement is effective and not withdrawn or suspended, and only as permitted by the registration statement), (b) such Warrants or Warrant Shares are sold or transferred pursuant to, and in accordance with all requirements of, Rule 144 (including, if applicable, the volume, manner-of-sale and notice filing provisions of Rule 144), or (c) such Warrants or Warrant Shares are eligible for sale under Rule 144, without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such securities and without volume or manner-of-sale restrictions. The Company shall bear all costs incurred by it or a Holder relating to the removal of the legend in accordance with this Section 6, provided that the Company shall not be liable for any transfer taxes relating to the issuance of a new certificate or statement in the name of any person other than the relevant Holder and its affiliates.

7. Issuance of Warrant Shares. The Company covenants that the Warrant Shares, when issued pursuant to the exercise of this Warrant, will be duly and validly issued, fully-paid and nonassessable and free from all taxes, liens, and charges with respect to the issuance thereof (except for any applicable transfer taxes, which shall be paid by the Holder).

8. Reservation of Warrant Shares. From the date hereof until the Expiration Date, the Company shall at all times reserve and keep available out of its authorized but unissued shares of the Applicable Class equal to the Warrant Shares, solely for the purpose of issuance upon the exercise of this Warrant, the maximum number of Warrant Shares issuable upon the exercise of this Warrant, and the par value per Warrant Share shall at all times be less than or equal to the applicable Exercise Price. The Company shall not increase the par value of any Warrant Shares receivable upon the exercise of this Warrant above the Exercise Price then in effect, and shall take all such actions as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable shares of Common Stock of the Company upon the exercise of this Warrant.

9. Limitation on Exercise. The Company shall not effect the exercise of this Warrant, and the Holder shall not have the right to exercise this Warrant, to the extent that after giving effect to such exercise, the Holder (together with the Holder's affiliates and any other member of a "group") would beneficially own in excess of 9.99% (the "***Maximum Percentage***") of the shares of common stock, par value $0.00001 per share (the "***Common Stock***") of the Company outstanding immediately after giving effect to such exercise (including such shares of Common Stock as may be obtained through the conversion of the Warrant Shares, if applicable). For purposes of the foregoing sentence, the aggregate number of shares of Common Stock beneficially owned by the Holder, its affiliates and any member of a group shall include the number of shares of Common Stock (including such shares of Common Stock as may be obtained through the conversion of the Warrant Shares, if applicable) issuable upon exercise of this Warrant with respect to which the determination of such sentence is being made, but shall exclude shares of Common Stock which would be issuable upon (i) exercise of the remaining, unexercised portion of this Warrant beneficially owned by the Holder and its affiliates and (ii) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company beneficially owned by the Holder and its affiliates (including, without limitation, any convertible notes or convertible preferred stock or warrants) subject to a limitation on conversion or exercise analogous to the limitation contained herein. For purposes of this paragraph, beneficial ownership and whether the Holder is a member of a group shall be calculated and determined in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended (the "***Exchange Act***"), and the rules promulgated thereunder. For purposes of this Warrant, in determining the number of outstanding shares of Common Stock, the Holder may rely on the number of outstanding shares of Common Stock as reflected in (1) the Company's most recent Form 10-K, Form 10-Q, Current Report on Form 8-K or other public filing with the Securities and Exchange Commission, as the case may be, (2) a more recent public announcement by the Company or (3) any other notice by the Company or the transfer agent for the Company setting forth the number of shares of Common Stock outstanding. For any reason at any time, upon the written or oral request of the Holder, the Company shall, within two (2) Business Days, confirm to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder, its affiliates or any member of a group since the date as of which such number of outstanding shares of Common Stock was reported. The Holder shall disclose to the Company the number of shares of Common Stock that it, its affiliates or any member of a group owns and has the right to acquire through the exercise of derivative securities and any limitations on exercise or conversion analogous to the limitation contained herein contemporaneously or immediately prior to exercising this Warrant. For clarification, if the Holder (together with the Holder's affiliates and any other member of a group) beneficially owns more than 9.99% of Common Stock before the exercise of this Warrant, the Holder will not be able to exercise this Warrant, subject to the limitations contained herein until the Holder's beneficial ownership (together with the Holder's affiliates and any other member of a group) is less than such limitation. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended beneficial ownership limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation.

10. Irrevocable Proxy for Certain Voting Applicable Class. If the Applicable Class are themselves voting securities or convey voting rights on an as-converted basis prior to such conversion, the Holder agrees to grant to the Company and the persons named as proxies by the Company or its management upon exercise of this Warrant an irrevocable proxy (the "***Irrevocable Proxy***") related to such number of Warrant Shares as is necessary to reduce the aggregate voting power of all securities voting together with the Common Stock owned by the Holder or its affiliates and group members, so that the Holder's aggregate voting power does not exceed 9.9% (such Warrant Shares, the "***Voting Applicable Shares***"), provided, however, that the Irrevocable Proxy will not apply with respect to any vote relating to the amendment of the terms of the Applicable Class. Warrants and other securities that are subject to a limitation on conversion analogous to the limitation set forth in Section 9 will not be deemed to be outstanding for the purposes of this Section until exercised. The number of Voting Applicable Shares subject to the Irrevocable Proxy will automatically increase upon the acquisition, including through exercise or conversion of derivative securities, of securities conveying voting power and decrease upon the disposition of securities. The Holder will, following the exercise of this Warrant for Voting Applicable Shares, notify the Company of acquisitions of securities carrying voting rights by it, its affiliates or group members unless notice is otherwise provided and, to the extent the Holder wishes to have the Irrevocable Proxy reduced, of any dispositions. The Company or its proxies will vote the Voting Applicable Shares subject to the Irrevocable Proxy in proportion to the votes collected from owners of securities conveying voting power other than the Holder in proportion to such votes and the relevant voting power of the securities held. The Irrevocable Proxy will be deemed to be coupled with an interest.

11. Adjustment of Exercise Price and Number of Warrant Shares. The number of and kind of Warrant Shares purchasable upon exercise of this Warrant and the Exercise Price shall be subject to adjustment from time to time as follows:

(a) Subdivisions, Combinations and Other Issuances. If the Company shall at any time or from time to time prior to the Expiration Date subdivide the Applicable Class, by forward stock split or otherwise, or combine such shares, or issue additional shares as a dividend with respect to any such shares, the number of Warrant Shares issuable on the exercise of this Warrant shall forthwith be proportionately increased in the case of a subdivision or stock dividend, or proportionately decreased in the case of a combination. Appropriate adjustments shall also be made to the Exercise Price payable per Warrant Share, but the Purchase Price payable for the total number of Warrant Shares purchasable under this Warrant (as adjusted) shall remain the same. The aggregate Exercise Price shall be reduced by the aggregate amount of cash dividends paid to holders of equity securities in the Company prior to the date of the Holder's exercise of the Warrant. Any adjustment under this Section 11(a) shall become effective as of the record date of such subdivision, combination, dividend, or other distribution, or in the event that no record date is fixed, upon the making of such subdivision, combination or dividend.

(b) Merger, Consolidation, Reclassification, Reorganization, Etc. In case of any change in the Applicable Class prior to the Expiration Date (other than as a result of a subdivision, combination, or stock dividend provided for in Section 11(a) above), whether through merger, consolidation, reclassification, reorganization, partial or complete liquidation, purchase of substantially all the assets of the Company, or other change in the capital structure of the Company (any of the foregoing, a "***Sale Event***"), then, as a condition of such Sale Event, lawful and adequate provision will be made so that the Holder will have the right thereafter to receive upon the exercise of the Warrant the kind and amount of shares of stock or other securities or property to which it would have been entitled if, immediately prior to such Sale Event, he had held the number of Warrant Shares obtainable upon the exercise of the Warrant. In any such case, appropriate adjustment will be made in the application of the provisions set forth herein with respect to the rights and interest thereafter of the Holder, to the end that the provisions set forth herein will thereafter be applicable, as nearly as reasonably may be, in relation to any shares of stock or other property thereafter deliverable upon the exercise of the Warrant. If the Company, at any time while this Warrant is outstanding, distributes to holders of the Applicable Class (i) evidences of its indebtedness, (ii) any security (other than a distribution of the Applicable Class covered by the preceding paragraph), (iii) rights or warrants to subscribe for or purchase any security, or (iv) any other asset (in each case, "***Distributed Property***"), then in each such case the Holder shall be entitled upon exercise of this Warrant for the purchase of any or all of the Warrant Shares, to receive the amount of Distributed Property which would have been payable to the Holder had such Holder been the holder of such Warrant Shares on the record date for the determination of stockholders entitled to such Distributed Property. The Company will at all times set aside in escrow and keep available for distribution to such holder upon exercise of this Warrant a portion of the Distributed Property to satisfy the distribution to which such Holder is entitled pursuant to the preceding sentence. The Company will not permit any change in its capital structure to occur unless the issuer of the shares of stock or other securities to be received by the Holder, if not the Company, agrees to be bound by and comply with the provisions of this Warrant.

(c) Rights Included in Certificate of Designation, Etc. The Warrant Shares issuable upon exercise of this Warrant shall be subject to the rights, privileges, powers and other designations, if any, of the Applicable Class, as set forth in the certificate of incorporation of the Company or in any certificate of designation thereto, including any applicable anti-dilution protections, as if such Warrant Shares had been issued to the Holder on the date of issuance of this Warrant.

(d) Notice of Adjustment. When any adjustment is required to be made in the number or kind of shares purchasable upon exercise of the Warrant, or in the Exercise Price, the Company shall promptly notify the Holder of such event, the amount of the adjustment, the method by which such adjustment was calculated, and the number of Warrant Shares or other securities or property thereafter purchasable and/or the Exercise Price after giving effect to such adjustment upon exercise of this Warrant.

(e) Notice of Sale Event or Distributed Property. The Company shall promptly notify the Holder (i) of any Sale Event and the kind and amount of shares of stock or other securities or property to which the Holder will be entitled in accordance with Section 11(b), and (ii) in the event there is any distribution of Distributed Property, the portion of the Distributed Property to which the Holder is entitled in accordance with Section 11(b).

12. Further Limitations on Disposition. The Holder agrees not to dispose of all or any portion of the Warrant Shares or the Warrant (a) unless and until there is then in effect a registration statement under the Act covering such proposed disposition and such disposition is made in accordance with such registration statement, or (b) unless the proposed disposition is pursuant to a transaction exempt from the registration requirements of the Act; provided, however, that the Holder may dispose or otherwise transfer the Warrant to an affiliate of the Holder, to a family member of the Holder, or to any trust, partnership, limited liability company or custodianship established for estate-planning purposes for the primary benefit of the Holder or his or her family members, in each case without the requirements set forth in this Section 12.

13. No Fractional Warrant Shares. Notwithstanding any provisions to the contrary in this Warrant, the Company shall not be required to issue any Warrant Shares representing fractional Warrant Shares, but may instead make a payment in cash based on the Exercise Price.

14. No Rights as Stockholders. Prior to the exercise of this Warrant, the Holder shall not be entitled to any rights of a stockholder of the Company, including, without limitation, the right to vote, to receive dividends or other distributions or to exercise any pre-emptive rights, and the Holder shall not be entitled to receive any notice of any proceedings of the Company, except as provided herein or as otherwise agreed. Upon exercise of this Warrant, the Holder shall become a stockholder of the Company in accordance with the Company's certificate of incorporation, to the extent such Holder is not already a stockholder of the Company.

15. Loss, Etc. of Warrant. Upon receipt of evidence satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant, and of indemnity reasonably satisfactory to the Company if lost, stolen or destroyed, and upon surrender and cancellation of this Warrant if mutilated, and upon reimbursement of the Company's reasonable incidental expenses, the Company shall execute and deliver to the Holder a new Warrant of like date, tenor and denomination.

16. Miscellaneous.

(a) Further Acts. Each of the parties hereto agrees to perform any further acts and execute and deliver any documents that may be reasonably necessary to carry out the provisions of this Warrant.

(b) Notices. Unless otherwise provided, all notices and other communications required or permitted under this Warrant shall be in writing and shall be mailed by United States first-class mail, postage prepaid, sent by facsimile or delivered personally by hand or by a nationally recognized courier addressed to the party to be notified at the address or facsimile number indicated for such person in that certain Note and Warrant Purchase Agreement, dated as of October [●], 2015, by and among the Company, the Holder and the other parties thereto, or at such other address or facsimile number as such party may designate by ten (10) days' advance written notice to the other parties hereto. All such notices and other written communications shall be effective on the date of mailing, confirmed facsimile transfer or delivery.

(c) Amendment and Modification; Waiver. Except as otherwise provided herein, this Warrant may only be amended, modified or supplemented by an agreement in writing signed by the Company and the Holders of outstanding Warrants exercisable for at least a majority of the Warrant Shares. No waiver by the Company or the Holders of outstanding Warrants exercisable for at least a majority of the Warrant Shares, waiving on behalf of all Holders, or the Holder, waiving on its own behalf, of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by such parties so waiving. The Holder hereby acknowledges that any provision hereof may be amended, modified, supplemented or waived on its behalf by the Holders of outstanding Warrants exercisable for at least a majority of the Warrant Shares. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Warrant shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy; power or privilege.

(d) Headings; References. The headings of sections contained in this Warrant are included herein for reference purposes only, solely for the convenience of the parties hereto, and shall not in any way be deemed to effect the meaning, interpretation or applicability of this Warrant or any term, condition or provision hereof.

(e) Successors and Assigns. All of the covenants, stipulations, promises, and agreements in this Warrant shall bind and inure to the benefit of the parties' respective successors and assigns, whether so expressed or not.

(f) Governing Law. This Warrant any controversy arising out of or relating to this Agreement shall be governed by and construed in accordance with the internal laws of the State of Delaware, without reference to the conflicts of law provisions.

(g) Entire Agreement. The terms and provisions of this Warrant supersedes all written and oral agreements and representations made by or on behalf of the Company. This Warrant contains the entire agreement of the parties.

(h) Severability. If one or more provisions of this Warrant are held to be unenforceable under applicable law, such provision shall be excluded from this Warrant and the balance of the Warrant shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

(i) Execution and Counterparts. This Warrant may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and such counterparts together shall constitute only one instrument. Any one of such counterparts shall be sufficient for the purpose of proving the existence and terms of this Warrant and no party shall be required to produce an original or all of such counterparts in making such proof.

(j) Jurisdiction. EACH OF THE PARTIES AGREE THAT NEITHER IT NOR ANY ASSIGNEE OR SUCCESSOR SHALL (A) SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM OR ANY OTHER ACTION BASED UPON, OR ARISING OUT OF, THIS WARRANT OR (B) SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. THE PROVISIONS OF THIS PARAGRAPH HAVE BEEN FULLY DISCUSSED BY THE PARTIES HERETO, AND THESE PROVISIONS SHALL BE SUBJECT TO NO EXCEPTIONS. NONE OF THE PARTIES HERETO HAS AGREED WITH OR REPRESENTED TO ANY OTHER THAT THE PROVISIONS OF THIS PARAGRAPH WILL NOT BE FULLY ENFORCED IN ALL INSTANCES. EACH OF THE PARTIES HEREBY SUBMITS TO THE JURISDICTION OF THE COURTS OF THE STATE OF DELAWARE AND THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE, AS WELL AS TO THE JURISDICTION OF ALL COURTS FROM WHICH AN APPEAL MAY BE TAKEN OR OTHER REVIEW SOUGHT FROM THE AFORESAID COURTS, FOR THE PURPOSE OF ANY SUIT, ACTION OR OTHER PROCEEDING ARISING OUT OF OR WITH RESPECT TO THIS WARRANT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY, AND EXPRESSLY WAIVES ANY AND ALL OBJECTIONS IT MAY HAVE AS TO VENUE IN ANY OF SUCH COURTS.

(k) Information Rights. While any securities of the Company remain outstanding and are "restricted securities" within the meaning of Rule 144(a)(3) under the Act, the Company will, during any period in which the Company is not subject to and in compliance with Section 13 or 15(d) of the of the Exchange Act and are not exempt from reporting under Rule 12g3-2(b) under the Exchange Act, furnish to the Holder, upon request and at the Company's expense, the information required to be delivered pursuant to Rule 144A(d)(4) under the Act.

(l) No Impairment. The Company shall not, by amendment of its Certificate of Incorporation or through a reorganization, transfer of assets, consolidation, merger, dissolution, issue, or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed under this Warrant by the Company, but shall at all times in good faith assist in carrying out of all the provisions of this Warrant and in taking all such action as may be necessary or appropriate to protect the Holder's rights under this Warrant against impairment.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, this Warrant is executed as of the date first written above.

COMPANY:

AUDIOEYE, INC.

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, this Warrant is executed as of the date first written above.

HOLDER:

[_____]

By: _____
Name: _____
Title: _____

ANNEX I
NOTICE OF EXERCISE

TO:

1. The undersigned Warrantholder (the "***Holder***") elects to acquire the Warrant Shares of AudioEye, Inc. (the "***Company***"), pursuant to the terms of that certain Warrant, dated [_____] (the "***Warrant***"), issued by the Company to the Holder. Capitalized terms used herein and not otherwise defined herein have the respective meanings set forth in the Warrant.

2. The Holder elects to purchase ____ Warrant Shares as provided in Section 3 and (check one):

☐ tenders herewith a check in the amount of $_____ as payment of the Purchase Price

☐ intends that payment of the Purchase Price shall be made as a "cashless exercise" under Section 4 of the Warrant

3. The Holder surrenders the Warrant with this Notice of Exercise.

4. The Holder represents that it is acquiring the aforesaid Warrant Shares for investment and not with a view to, or for resale in connection with, distribution and that the Holder has no present intention of distributing or reselling the Warrant Shares unless in compliance with all applicable federal and state securities laws.

5. Pursuant to this Notice of Exercise, the Company shall deliver to the Holder Warrant Shares determined in accordance with the terms of the Warrant.

By: _____
Name: _____
Title: _____
Date: _____

Exhibit 10.34

THIS WARRANT AND THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "***ACT***"), AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED OR HYPOTHECATED UNLESS THERE IS AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT COVERING SUCH SECURITIES, THE SALE IS MADE IN ACCORDANCE WITH RULE 144 UNDER THE ACT, OR THE COMPANY RECEIVES AN OPINION OF COUNSEL FOR THE HOLDER OF THESE SECURITIES REASONABLY SATISFACTORY TO THE COMPANY STATING THAT SUCH SALE, TRANSFER, ASSIGNMENT OR HYPOTHECATION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SUCH ACT.

Warrant No. WC-31

AUDIOEYE, INC.
COMMON STOCK WARRANT

This Common Stock Warrant (this "***Warrant***") is issued as of September 26, 2018, by AudioEye, Inc., a Delaware corporation (the "***Company***"), to Equity Trust Custodian, FBO Alexandre Zyngier IRA (the "***Holder***") in connection with that certain Convertible Promissory Note No. PM-31 dated as of September 26, 2018, (the "***Note***"), according to the terms of that certain Note and Warrant Purchase Agreement, dated as of October 9, 2015, by and between the Company and the other parties thereto (as the same may from time to time be amended, modified, extended, renewed or restated, the "***Purchase Agreement***"). Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Purchase Agreement.

1. Number of Warrant Shares; Exercise Price. Subject to the terms and conditions set forth herein, the Holder is entitled, upon surrender of this Warrant at the principal office of the Company, to purchase from the Company 20,000 shares of common stock, $0.00001 par value per share (the "***Common Stock***"), of the Company (as adjusted from time to time, "***Warrant Shares***") at a price of $2.50 per Warrant Share (as adjusted for splits and the like, the "***Exercise Price***").

2. Exercise Period. This Warrant is exercisable as to the Warrant Shares covered hereby during the period commencing on the date hereof and continuing until 5:00 p.m. Arizona Time on the fifth (5th) anniversary hereof (the "***Expiration Date***").

3. Method of Exercise. Subject to Sections 1 and 2 above, the Holder may exercise, in whole or in part, the purchase rights evidenced by this Warrant. Such exercise shall be effected by: (a) the surrender of this Warrant, together with a duly executed copy of the form of exercise notice attached hereto as Annex I (the "***Exercise Notice***"), to the secretary of the Company at its principal office, accompanied by (b) either (x) the payment to the Company by cash, check or wire transfer of an amount equal to the product of (i) the Exercise Price multiplied by (ii) the number of Warrant Shares being purchased (such product, the "***Purchase Price***") or (y) the payment of the Purchase Price through a "cashless exercise" in accordance with Section 4. The date on which the Exercise Notice is delivered to the secretary of the Company is an "***Exercise Date***."

4. Cashless Exercise. In the event the Holder elects to satisfy its obligation to pay the Purchase Price through a "cashless" exercise, the Company shall issue to the Holder the number of Warrant Shares determined as follows:

X = Y [(A-B)/A]

where:

"X" equals the number of Warrant Shares to be issued to the Holder;

"Y" equals the total number of Warrant Shares with respect to which this Warrant is being exercised;

"A" equals the arithmetic average of the Closing Sale Prices of the shares of Common Stock (as reported by Bloomberg Financial Markets) for the five (5) consecutive Trading Days ending on the date immediately preceding the Exercise Date (the "***Fair Market Value***"); and

"B" equals the Exercise Price then in effect for the applicable Warrant Shares at the time of such exercise.

For purposes of this Warrant, "***Closing Sale Price***" means, for any security as of any date, the last trade price for such security on the Principal Trading Market for such security, as reported by Bloomberg Financial Markets, or, if such Principal Trading Market begins to operate on an extended hours basis and does not designate the last trade price, then the last trade price of such security prior to 4:00 P.M., New York City time, as reported by Bloomberg Financial Markets, or if the foregoing do not apply, the last trade price of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg Financial Markets, or, if no last trade price is reported for such security by Bloomberg Financial Markets, the average of the bid prices, or the ask prices, respectively, of any market makers for such security as reported in the "pink sheets" by OTC Markets. "***Trading Day***" means a day on which exchanges in the United States are open for the buying and selling of securities. "***Principal Trading Market***" means the OTC Bulletin Board, the OTC Markets, NASDAQ or a national securities exchange. If the Closing Sale Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Sale Price of such security on such date shall be the fair market value as determined in good faith by the Board of Directors of the Company. The Board of Directors' determination shall be binding upon all parties absent demonstrable error. All such determinations shall be appropriately adjusted for any stock dividend, stock split, stock combination or other similar transaction during the applicable calculation period.

5. Rule 144. For purposes of Rule 144 promulgated under the Securities Act of 1933, as amended (the "***Act***"), it is intended, understood and acknowledged that the Warrant Shares issued in a "cashless exercise" transaction shall be deemed to have been acquired by the Holder, and the holding period for the Warrant Shares shall be deemed to have commenced, on the Original Issue Date of this Warrant (provided that the Commission continues to take the position that such treatment is proper at the time of such exercise).

6. Certificates for Warrant Shares. If the shares of the Company are certificated, upon the exercise of the purchase rights evidenced by this Warrant, one or more certificates for the number of Warrant Shares so purchased shall be issued and delivered to the Holder as soon as practicable thereafter, with a legend substantially similar to the legend set forth below (in addition to any legend required under applicable state securities laws):

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER UNITED STATES FEDERAL OR STATE SECURITIES LAWS AND MAY NOT BE OFFERED FOR SALE, SOLD, OR OTHERWISE TRANSFERRED OR ASSIGNED FOR VALUE, DIRECTLY OR INDIRECTLY, NOR MAY THE SECURITIES BE TRANSFERRED ON THE BOOKS OF THE COMPANY, WITHOUT REGISTRATION OF SUCH SECURITIES UNDER ALL APPLICABLE UNITED STATES FEDERAL OR STATE SECURITIES LAWS OR COMPLIANCE WITH AN APPLICABLE EXEMPTION THEREFROM, SUCH COMPLIANCE, AT THE OPTION OF THE COMPANY, TO BE EVIDENCED BY AN OPINION OF SHAREHOLDER'S COUNSEL, IN A FORM ACCEPTABLE TO THE COMPANY, THAT NO VIOLATION OF SUCH REGISTRATION PROVISIONS WOULD RESULT FROM ANY PROPOSED TRANSFER OR ASSIGNMENT."

Upon any partial exercise of this Warrant, the Company shall forthwith issue and deliver to the Holder a new warrant or warrants of like tenor as this Warrant for the remaining portion of the Warrant Shares for which this Warrant may still be exercised.

The legend set forth in this Section 6 shall be removed and the Company shall issue a certificate (or issue in an uncertificated form) without such legend or any other legend to the Holder if (a) such Warrants or Warrant Shares are sold pursuant to an effective registration statement under the Act (provided that the Holder agrees to only sell such Warrant or Warrant Shares during such time that the registration statement is effective and not withdrawn or suspended, and only as permitted by the registration statement), (b) such Warrants or Warrant Shares are sold or transferred pursuant to, and in accordance with all requirements of, Rule 144 (including, if applicable, the volume, manner-of-sale and notice filing provisions of Rule 144), or (c) such Warrants or Warrant Shares are eligible for sale under Rule 144, without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such securities and without volume or manner-of-sale restrictions. The Company shall bear all costs incurred by it or a Holder relating to the removal of the legend in accordance with this Section 6, provided that the Company shall not be liable for any transfer taxes relating to the issuance of a new certificate or statement in the name of any person other than the relevant Holder and its affiliates.

7. Issuance of Warrant Shares. The Company covenants that the Warrant Shares, when issued pursuant to the exercise of this Warrant, will be duly and validly issued, fully-paid and non-assessable and free from all taxes, liens, and charges with respect to the issuance thereof (except for any applicable transfer taxes, which shall be paid by the Holder).

8. Reservation of Warrant Shares. From the date hereof until the Expiration Date, the Company shall at all times reserve and keep available out of its authorized but unissued Common Stock of the Company or other securities constituting Warrant Shares, solely for the purpose of issuance upon the exercise of this Warrant, the maximum number of Warrant Shares issuable upon the exercise of this Warrant, and the par value per Warrant Share shall at all times be less than or equal to the applicable Exercise Price. The Company shall not increase the par value of any Warrant Shares receivable upon the exercise of this Warrant above the Exercise Price then in effect, and shall take all such actions as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable shares of Common Stock of the Company upon the exercise of this Warrant.

9. Holder's Restrictions. The Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 3 or otherwise, to the extent that after giving effect to such issuance after exercise, the Holder (together with the Holder's affiliates), as set forth on the applicable Exercise Notice, would beneficially own in excess of 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to such issuance. For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its affiliates shall include the number of shares of Common Stock issuable upon exercise of this Warrant and any other security of the Company convertible into Common Stock with respect to which the determination of such sentence is being made. Except as set forth in the preceding sentence, for purposes of this Section 9, beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act (as defined below), it being acknowledged by Holder that the Company is not representing to Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and Holder is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the limitation contained in this Section 9 applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder) and of which portion of this Warrant is exercisable shall be in the sole discretion of such Holder, and the submission of an Exercise Notice shall be deemed to be such Holder's determination of whether this Warrant is exercisable (in relation to other securities owned by such Holder) and of which portion of this Warrant is exercisable, in each case subject to such aggregate percentage limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. For purposes of this Section 9, in determining the number of outstanding shares of Common Stock, the Holder may rely on the number of outstanding shares of Common Stock as reflected in (x) the Company's most recent Form 10-Q or Form 10-K, as the case may be, (y) a more recent public announcement by the Company or (z) any other notice by the Company or the Company's transfer agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of the Holder, the Company shall within two Trading Days (as defined below) confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its affiliates since the date as of which such number of outstanding shares of Common Stock was reported. The provisions of this Section 9 may be waived by the Holder upon, at the election of the Holder, not less than 61 days' prior notice to the Company, and the provisions of this Section 9 shall continue to apply until such 61st day (or such later date, as determined by the Holder, as may be specified in such notice of waiver).

10. Adjustment of Exercise Price and Number of Warrant Shares. The number of and kind of Warrant Shares purchasable upon exercise of this Warrant and the Exercise Price shall be subject to adjustment from time to time as follows:

(a) Subdivisions, Combinations and Other Issuances. If the Company shall at any time or from time to time prior to the Expiration Date subdivide the Warrant Shares, by forward stock split or otherwise, or combine such shares, or issue additional shares as a dividend with respect to any such shares, the number of Warrant Shares issuable on the exercise of this Warrant shall forthwith be proportionately increased in the case of a subdivision or stock dividend, or proportionately decreased in the case of a combination. Appropriate adjustments shall also be made to the Exercise Price payable per Warrant Share, but the Purchase Price payable for the total number of Warrant Shares purchasable under this Warrant (as adjusted) shall remain the same. The aggregate Exercise Price shall be reduced by the aggregate amount of cash dividends paid to holders of equity securities in the Company prior to the date of the Holder's exercise of the Warrant. Any adjustment under this Section 10(a) shall become effective as of the record date of such subdivision, combination, dividend, or other distribution, or in the event that no record date is fixed, upon the making of such subdivision, combination or dividend.

(b) Merger, Consolidation, Reclassification, Reorganization, Etc. In case of any change in the Warrant Shares prior to the Expiration Date (other than as a result of a subdivision, combination, or stock dividend provided for in Section 10(a) above), whether through merger, consolidation, reclassification, reorganization, partial or complete liquidation, purchase of substantially all the assets of the Company, or other change in the capital structure of the Company (any of the foregoing a "***Sale Event***"), then, as a condition of such Sale Event, lawful and adequate provision will be made so that the Holder will have the right thereafter to receive upon the exercise of the Warrant the kind and amount of shares of stock or other securities or property to which it would have been entitled if, immediately prior to such Sale Event, he had held the number of Warrant Shares obtainable upon the exercise of the Warrant. In any such case, appropriate adjustment will be made in the application of the provisions set forth herein with respect to the rights and interest thereafter of the Holder, to the end that the provisions set forth herein will thereafter be applicable, as nearly as reasonably may be, in relation to any shares of stock or other property thereafter deliverable upon the exercise of the Warrant. If the Company, at any time while this Warrant is outstanding, distributes to holders of the Common Stock (i) evidences of its indebtedness, (ii) any security (other than a distribution of the Common Stock covered by the preceding paragraph), (iii) rights or warrants to subscribe for or purchase any security, or (iv) any other asset (in each case, "***Distributed Property***"), then in each such case the Holder shall be entitled upon exercise of this Warrant for the purchase of any or all of the Warrant Shares, to receive the amount of Distributed Property which would have been payable to the Holder had such Holder been the holder of such Warrant Shares on the record date for the determination of stockholders entitled to such Distributed Property. The Company will at all times set aside in escrow and keep available for distribution to such holder upon exercise of this Warrant a portion of the Distributed Property to satisfy the distribution to which such Holder is entitled pursuant to the preceding sentence. The Company will not permit any change in its capital structure to occur unless the issuer of the shares of stock or other securities to be received by the Holder, if not the Company, agrees to be bound by and comply with the provisions of this Warrant.

(c) Dilution.

(i) In the event that the Company shall, at any time or from time to time, offer shares of Common Stock (other than Excluded Shares (as defined in the Note)) in a non-public offering (or in a public offering in which more than 50% of such public offering is subscribed to by affiliates of the Company) in which the Common Stock is sold at a price less than the Exercise Price, then the Exercise Price shall be reduced (but not increased) to an amount determined by multiplying the Exercise Price by a fraction (x) the numerator of which shall be (A) the number of shares of Common Stock deemed outstanding (as determined in the following sentence) immediately prior to such issue or sale, plus (B) the number of shares of Common Stock which the Aggregate Consideration (as defined below) received or deemed received by the Company for the total number of additional shares of Common Stock so issued would purchase at such then-existing Exercise Price, and (y) the denominator of which shall be the number of shares of Common Stock deemed outstanding (as determined in the following sentence) immediately prior to such issue or sale plus the total number of additional shares of Common Stock so issued. For the purposes of the preceding sentence, the number of shares of Common Stock deemed to be outstanding as of a given date shall be the sum of (I) the number of shares of Common Stock outstanding, (II) the number of Warrant Shares obtainable upon exercise of the Warrant if the Exercise Date is the day immediately preceding the given date, and (III) the number of shares of Common Stock which are issuable upon the exercise or conversion of all other rights, options and Warrant Shares outstanding on the day immediately preceding the given date. Notwithstanding the foregoing, any issuance of additional Notes in an Additional Closing (as defined in the Purchase Agreement) or issuance of the equity securities into which they convert (in accordance with the terms thereof), or the issuance of equity securities upon exercise of the other Warrants sold pursuant to the Purchase Agreement, shall not cause an adjustment of the Conversion Price under this Section 10(c)(i).

(ii) An adjustment made pursuant to Section 10(c)(i) shall be made on the next Business Day following the date on which any such issuance or sale is made and shall be effective retroactively to the close of business on the date of such issuance or sale.

(iii) For the purpose of making any adjustment required under Section 10(c)(i), the aggregate consideration received by the Company for any issue or sale of securities (the "***Aggregate Consideration***") shall be computed as: (A) to the extent it consists of cash, the gross amount of cash received by the Company before deduction of any underwriting or similar commissions, compensation or concessions paid or allowed by the Company in connection with such issue or sale and without deduction of any expenses payable by the Company, (B) to the extent it consists of property other than cash, the fair value of that property as determined in good faith by the Board of Directors of the Company; provided, however, that to the extent the Board of Directors determines the fair value of property other than cash is equal to or exceeds $1,000,000, then the Company shall have such property appraised by a qualified independent appraiser, whose valuation shall conclusively determine the value, and (C) if shares of Common Stock, Convertible Securities (as defined below) or rights or options to purchase either shares of Common Stock or Convertible Securities are issued or sold together with other stock or securities or other assets of the Company for a consideration which covers both, the portion of the consideration so received that may be reasonably determined in good faith by the Board of Directors to be allocable to such shares of Common Stock, Convertible Securities or rights or options.

(iv) For the purpose of the adjustment required under Section 10(c)(i), if the Company issues or sells (x) preferred shares or other stock, options, warrants, purchase rights or other securities convertible into, shares of Common Stock other than Excluded Shares (such convertible stock or securities being herein referred to as "***Convertible Securities***") or (y) rights or options for the purchase of shares of Common Stock or Convertible Securities (other than Excluded Shares) and if the Effective Price (defined below) of such shares of Common Stock is less than the Exercise Price, the Company shall be deemed to have issued at the time of the issuance of such rights or options or Convertible Securities the maximum number of shares of Common Stock issuable upon exercise or conversion thereof and to have received as consideration for the issuance of such shares an amount equal to the total amount of the consideration, if any, received by the Company for the issuance of such rights or options or Convertible Securities plus: (A) in the case of such rights or options, the minimum amounts of consideration, if any, payable to the Company upon the exercise of such rights or options; and (B) in the case of Convertible Securities, the minimum amounts of consideration, if any, payable to the Company upon the conversion thereof (other than by cancellation of liabilities or obligations evidenced by such Convertible Securities); provided that if the minimum amounts of such consideration cannot be ascertained, but are a function of anti-dilution or similar protective clauses, the Company shall be deemed to have received the minimum amounts of consideration without reference to such clauses. The "***Effective Price***" of shares of Common Stock shall mean the quotient determined by dividing the total number of shares of Common Stock issued or sold, or deemed to have been issued or sold by the Company under Section 10(a)(i), into the Aggregate Consideration received, or deemed to have been received by the Company for such issue under Section 10(a)(i), for such shares of Common Stock. In the event that the number of shares of Common Stock or the Effective Price cannot be ascertained at the time of issuance, such shares of Common Stock shall be deemed issued immediately upon the occurrence of the first event that makes such number of shares or the Effective Price, as applicable, ascertainable.

(v) If the minimum amount of consideration payable to the Company upon the exercise or conversion of rights, options or Convertible Securities is reduced over time or on the occurrence or non-occurrence of specified events other than by reason of anti-dilution adjustments, the Effective Price shall be recalculated using the figure to which such minimum amount of consideration is reduced; provided further, that if the minimum amount of consideration payable to the Company upon the exercise or conversion of such rights, options or Convertible Securities is subsequently increased, the Effective Price shall be again recalculated using the increased minimum amount of consideration payable to the Company upon the exercise or conversion of such rights, options or Convertible Securities.

(vi) If any option or warrant expires or is cancelled without having been exercised, then, for the purposes of the adjustments set forth above, such option or warrant shall have been deemed not to have been issued and the Exercise Price shall be adjusted accordingly.

(d) Notice of Adjustment. When any adjustment is required to be made in the number or kind of shares purchasable upon exercise of the Warrant, or in the Exercise Price, the Company shall promptly notify the Holder of such event, the amount of the adjustment, the method by which such adjustment was calculated, and the number of Warrant Shares or other securities or property thereafter purchasable and/or the Exercise Price after giving effect to such adjustment upon exercise of this Warrant.

(e) Notice of Sale Event or Distributed Property. The Company shall promptly notify the Holder (i) of any Sale Event and the kind and amount of shares of stock or other securities or property to which the Holder will be entitled in accordance with Section 10(b), and (ii) in the event there is any distribution of Distributed Property, the portion of the Distributed Property to which the Holder is entitled in accordance with Section 10(b).

11. Further Limitations on Disposition. The Holder agrees not to dispose of all or any portion of the Warrant Shares or the Warrant (a) unless and until there is then in effect a registration statement under the Act covering such proposed disposition and such disposition is made in accordance with such registration statement, or (b) the proposed disposition is pursuant to a transaction exempt from the registration requirements of the Act; provided, however, that the Holder may dispose or otherwise transfer the Warrant to an affiliate of the Holder, to a family member of the Holder, or to any trust, partnership, limited liability company or custodianship established for estate-planning purposes for the primary benefit of the Holder or his or her family members, in each case without the requirements set forth in this Section 11.

12. No Fractional Warrant Shares. Notwithstanding any provisions to the contrary in this Warrant, the Company shall not be required to issue any Warrant Shares representing fractional Warrant Shares, but may instead make a payment in cash based on the Exercise Price.

13. No Rights as Stockholders. Prior to the exercise of this Warrant, the Holder shall not be entitled to any rights of a stockholder of the Company, including, without limitation, the right to vote, to receive dividends or other distributions or to exercise any pre-emptive rights, and the Holder shall not be entitled to receive any notice of any proceedings of the Company, except as provided herein or as otherwise agreed. Upon exercise of this Warrant, the Holder shall become a stockholder of the Company in accordance with the Company's certificate of incorporation, to the extent such Holder is not already a stockholder of the Company.

14. Loss, Etc. of Warrant. Upon receipt of evidence satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant, and of indemnity reasonably satisfactory to the Company if lost, stolen or destroyed, and upon surrender and cancellation of this Warrant if mutilated, and upon reimbursement of the Company's reasonable incidental expenses, the Company shall execute and deliver to the Holder a new Warrant of like date, tenor and denomination.

15. Miscellaneous.

(a) Further Acts. Each of the parties hereto agrees to perform any further acts and execute and deliver any documents that may be reasonably necessary to carry out the provisions of this Warrant.

(b) Notices. Unless otherwise provided, all notices and other communications required or permitted under this Warrant shall be in writing and shall be mailed by United States first-class mail, postage prepaid, sent by facsimile or delivered personally by hand or by a nationally recognized courier addressed to the party to be notified at the address or facsimile number indicated for such person in the Purchase Agreement, or at such other address or facsimile number as such party may designate by ten (10) days' advance written notice to the other parties hereto. All such notices and other written communications shall be effective on the date of mailing, confirmed facsimile transfer or delivery.

(c) Amendment and Modification; Waiver. Except as otherwise provided herein, this Warrant may only be amended, modified or supplemented by an agreement in writing signed by the Company and the Holders of outstanding Warrants exercisable for at least a majority of the Warrant Shares. No waiver by the Company or the Holders of outstanding Warrants exercisable for at least a majority of the Warrant Shares, waiving on behalf of all Holders, or the Holder, waiving on its own behalf, of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by such parties so waiving. The Holder hereby acknowledges that any provision hereof may be amended, modified, supplemented or waived on its behalf by the Holders of outstanding Warrants exercisable for at least a majority of the Warrant Shares. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Warrant shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

(d) Headings; References. The headings of sections contained in this Warrant are included herein for reference purposes only, solely for the convenience of the parties hereto, and shall not in any way be deemed to effect the meaning, interpretation or applicability of this Warrant or any term, condition or provision hereof.

(e) Successors and Assigns. All of the covenants, stipulations, promises, and agreements in this Warrant shall bind and inure to the benefit of the parties' respective successors and assigns, whether so expressed or not.

(f) Governing Law. This Warrant any controversy arising out of or relating to this Agreement shall be governed by and construed in accordance with the internal laws of the State of Delaware, without reference to the conflicts of law provisions.

(g) Entire Agreement. The terms and provisions of the Transaction Agreements supersede all written and oral agreements and representations made by or on behalf of the Company. The Transaction Agreements contain the entire agreement of the parties.

(h) Severability. If one or more provisions of this Warrant are held to be unenforceable under applicable law, such provision shall be excluded from this Warrant and the balance of the Warrant shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

(i) Execution and Counterparts. This Warrant may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and such counterparts together shall constitute only one instrument. Any one of such counterparts shall be sufficient for the purpose of proving the existence and terms of this Warrant and no party shall be required to produce an original or all of such counterparts in making such proof.

(j) Jurisdiction. EACH OF THE PARTIES AGREE THAT NEITHER IT NOR ANY ASSIGNEE OR SUCCESSOR SHALL (A) SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM OR ANY OTHER ACTION BASED UPON, OR ARISING OUT OF, THIS WARRANT OR (B) SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. THE PROVISIONS OF THIS PARAGRAPH HAVE BEEN FULLY DISCUSSED BY THE PARTIES HERETO, AND THESE PROVISIONS SHALL BE SUBJECT TO NO EXCEPTIONS. NONE OF THE PARTIES HERETO HAS AGREED WITH OR REPRESENTED TO ANY OTHER THAT THE PROVISIONS OF THIS PARAGRAPH WILL NOT BE FULLY ENFORCED IN ALL INSTANCES. EACH OF THE PARTIES HEREBY SUBMITS TO THE JURISDICTION OF THE COURTS OF THE STATE OF DELAWARE AND THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE, AS WELL AS TO THE JURISDICTION OF ALL COURTS FROM WHICH AN APPEAL MAY BE TAKEN OR OTHER REVIEW SOUGHT FROM THE AFORESAID COURTS, FOR THE PURPOSE OF ANY SUIT, ACTION OR OTHER PROCEEDING ARISING OUT OF OR WITH RESPECT TO THIS WARRANT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY, AND EXPRESSLY WAIVES ANY AND ALL OBJECTIONS IT MAY HAVE AS TO VENUE IN ANY OF SUCH COURTS.

(k) Information Rights. While any securities of the Company remain outstanding and are "restricted securities" within the meaning of Rule 144(a)(3) under the Act, the Company will, during any period in which the Company is not subject to and in compliance with Section 13 or 15(d) of the of the Securities and Exchange Act of 1934, as amended (the "***Exchange Act***") and are not exempt from reporting under Rule 12g3-2(b) under the Exchange Act, furnish to the Holder, upon request and at the Company's expense, the information required to be delivered pursuant to Rule 144A(d)(4) under the Act.

(l) No Impairment. The Company shall not, by amendment of its Certificate of Incorporation or through a reorganization, transfer of assets, consolidation, merger, dissolution, issue, or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed under this Warrant by the Company, but shall at all times in good faith assist in carrying out of all the provisions of this Warrant and in taking all such action as may be necessary or appropriate to protect the Holder's rights under this Warrant against impairment.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, this Warrant is executed as of the date first written above.

COMPANY:

AUDIOEYE, INC.

By: /s/ Todd A. Bankofier
Name: Todd A. Bankofier
Title: Chief Executive Officer

IN WITNESS WHEREOF, this Warrant is executed as of the date first written above.

HOLDER:

If Entity:

Entity Name: Equity Trust Custodian, FBO Alexandre Zyngier IRA

By: /s/ Alexandre Zyngier

Name: Alexandre Zyngier

Title: _____

If Individual:

Name: _____

Signature: _____

ANNEX I

NOTICE OF EXERCISE

TO:

1. The undersigned Warrantholder ("***Holder***") elects to acquire the Warrant Shares of AudioEye, Inc. (the "***Company***"), pursuant to the terms of the Warrant dated October ___, 2015 (the "***Warrant***"). Capitalized terms used herein and not otherwise defined herein have the respective meanings set forth in the Warrant.

2. The Holder elects to purchase _____ Warrant Shares as provided in Section 3 and (check one):

☐ tenders herewith a check in the amount of $_____ as payment of the Purchase Price

☐ intends that payment of the Purchase Price shall be made as a "cashless exercise' under Section 4 of the Warrant

3. The Holder surrenders the Warrant with this Notice of Exercise.

4. The Holder represents that it is acquiring the aforesaid Warrant Shares for investment and not with a view to, or for resale in connection with, distribution and that the Holder has no present intention of distributing or reselling the Warrant Shares unless in compliance with all applicable federal and state securities laws.

5. Pursuant to this Notice of Exercise, the Company shall deliver to the Holder Warrant Shares determined in accordance with the terms of the Warrant.

By: _____

Name: _____

Title: _____

Date: _____

Exhibit 10.35

Schedule of Certain Parties to 2018 Securities Purchase Agreement and Registration Rights Agreements

The following directors, executive officers and principal stockholders of AudioEye, Inc. (the "Company"), in addition to certain other investors, each entered into (i) a Securities Purchase Agreement dated August 6, 2018 with the Company in the form attached as Exhibit 10.1 to the Company's Current Report on Form 8-K, as filed with the Securities and Exchange Commission on August 7, 2018, and (ii) a Registration Rights Agreement with the Company dated August 6, 2018 in the form attached as Exhibit 4.1 to the Company's Current Report on Form 8-K, as filed with the Securities and Exchange Commission on August 7, 2018:

Purchaser	**No. of Shares of Common Stock Acquired Pursuant to Securities Purchase Agreement and Subject to Registration Rights Agreement**	**Total Purchase Price for Securities**
CSB IV US Holdings, LLC (1)	16,000	$100,000
HZ Investments Family LP (2)	10,400	65,000
Todd Bankofier	1,600	10,000
Anthony Coelho	4,000	25,000
Sero Capital LLC (3)	1,031,132	250,000
Ernest W. Purcell	32,000	200,000

(1) Dr. Carr Bettis, our Executive Chairman/Chairman of the Board and a director, has reported that he has sole voting and dispositive power over the securities held for the account of CSB IV Holdings LLC.

(2) Alexandre Zyngier, one of our directors, has reported that he has sole voting and dispositive power over the securities held for the account of HZ Investments Family LP.

(3) Sero Capital LLC is a successor to Anthion Partners II LLC, which originally acquired the shares and entered into the Securities Purchase Agreement and Registration Rights Agreement.

More accessible. More usable. More people.

AUDIOEYE, INC.

CODE OF BUSINESS CONDUCT AND ETHICS

(as of December 7, 2018)

I. INTRODUCTION

AudioEye, Inc. and its subsidiaries (the "***Company***" or "***AudioEye***") will conduct its business honestly and ethically wherever we operate. We will constantly attempt to improve the quality of our services, products and operations and will maintain a reputation for honesty, fairness, respect, responsibility, integrity, trust and sound business judgment. No illegal or unethical conduct on the part of our directors, officers or employees or their affiliates is in the Company's best interest. The Company will not compromise its principles for short-term advantage. The honest and ethical performance of the Company is the sum of the ethics of the men and women who work here. Therefore, we are all expected to adhere to high standards of personal integrity.

This Code of Business Conduct and Ethics (this "***Code***") covers a wide range of business practices and procedures. It does not cover every issue that may arise, but it sets out basic principles to guide all directors, officers and employees of the Company. All of our directors, officers and employees must conduct themselves accordingly and seek to avoid even the appearance of improper behavior. This Code should also be provided to and followed by the Company's other agents and representatives, including consultants.

In accordance with applicable law, this Code will be filed with the Securities and Exchange Commission (the "***SEC***"), posted on the Company's website and/or otherwise made available for examination by our stockholders. We expect every employee, officer and director to read and understand the Code and its application to the performance of his or her business responsibilities. References in the Code to employees are intended to cover officers and, as specifically provided, directors, in connection with their activities related to the Company.

YOU SHOULD NOT HESITATE TO ASK QUESTIONS ABOUT WHETHER ANY CONDUCT MAY VIOLATE THE CODE, VOICE CONCERNS OR CLARIFY GRAY AREAS. IN ADDITION, YOU SHOULD BE ALEART TO POSSIBLE VIOLATIONS OF THE CODE BY OTHERS AND REPORT SUSPECTED VIOLATIONS, WITHOUT FEAR OF ANY FORM OF RETALIATION. [SECTION] BELOW DETAILS THE COMPLIANCE RESOURCES AVAILABLE TO YOU.

II. COMPLIANCE WITH APPLICABLE LAWS, RULES AND REGULATIONS

Obeying the law, both in letter and in spirit, is the foundation on which the Company's ethical standards are built. All directors, officers and employees must respect and obey the laws, rules and regulations of the United States and of the cities, states and countries in which we operate. While you are not expected to memorize every detail of the applicable laws, rules and regulations, you must have sufficient understanding to be able to determine when to seek advice. In particular, all directors, officers and employees must comply with federal securities laws, and rules and regulations that govern the Company. Our employees are expected to comply with the applicable laws in all countries in which they work or to which they travel. You should be aware that all conduct and records, including emails, are subject to internal and external audits and to discovery by third parties in the event of a government investigation or civil litigation. If you have a question as to whether an activity is restricted or prohibited, seek assistance **before** taking any action, including giving any verbal assurances that might be regulated by international laws.

III. AVOIDANCE OF CONFLICTS OF INTEREST

The Company's directors, officers and employees must never permit their personal interests to conflict, or even appear to conflict, with the interests of the Company. A "conflict of interest" exists when a person's private interests interfere in any way, or even appear to interfere, with the Company's interests. A conflict situation can arise when a director, officer or employee takes actions, or has interests, that may make it difficult to perform his or her Company work objectively and effectively. Conflicts of interest may also arise when a director, officer or employee, or a member of his or her family, receives improper personal benefits as a result of his or her position with the Company. Loans to, or guarantees of the obligations of, directors, officers and employees and their family members may create conflicts of interest and may also be illegal.

For example, it is a conflict of interest for a director, officer or employee to work simultaneously for a competitor or customer, even as a consultant or board member. Each director, officer and employee must be particularly careful to avoid representing the Company in any transaction with a third party with whom the director, officer or employee has any outside business affiliation or relationship. The best policy is to avoid any direct or indirect business connection with our customers and competitors, except on our behalf.

Conflicts of interest (including both actual and apparent conflicts of interest) are prohibited under this Code except in limited cases under guidelines or exceptions specifically approved in advance by the Company's Board of Directors. Executive officers and directors may seek authorizations and determinations from the Audit Committee. With respect to executive officers and directors, notwithstanding anything to the contrary herein, the only action or relationship that shall be deemed a conflict is one that meets the requirement for disclosure under the Company's Related Person Transaction Policy pursuant to Item 404 of Regulation S-K ("***Related Party Transactions***"). Related Party Transactions shall be approved by the Audit Committee as required by applicable laws and regulations.

Conflicts of interest may not always be clear-cut, so if you have a question, you should consult with the Company's Chief Financial Officer ("***CFO***") or Chief Executive Officer ("***CEO***"). Any director, officer or employee who becomes aware of any transaction or relationship that is a conflict of interest or a potential conflict of interest should bring it to the attention of our CFO or CEO.

IV. CORRUPTION AND BRIBERY

AudioEye strictly forbids its employees, directors, contractors or business partners from **offering or giving** to any person, or **soliciting or accepting** from any person bribes, kickbacks, preferential benefits or other similar remuneration or consideration. We abide by anti-corruption laws everywhere we do business without exception. The United States Foreign Corrupt Practices Act prohibits giving anything of value, directly or indirectly, to officials of foreign governments or foreign political candidates in order to obtain or retain business. Therefore, this Code strictly prohibits making illegal payments to government officials of any country.

Anti-corruption laws also prohibit making such payments to persons who are **not** government officials. This is known as "commercial bribery." And they prohibit not only giving bribes, but also offering (even if the offer is not accepted), and soliciting or accepting bribes.

We must also do our utmost to ensure that our agents, consultants, and other third parties refrain from engaging in corrupt practices on our behalf. We cannot make any payment to a third party if it will be used to make an improper payment. We should perform due diligence on our business partners to avoid working with parties engaging in corrupt practices.

Bribery can have very serious consequences for the individuals involved and for AudioEye. The anti-corruption laws are complicated. If you have any questions, please contact the COO or CEO.

V. GIFTS AND ENTERTAINMENT

Gifts and entertainment are meant to create goodwill and sound working relationships. They are not to be used to gain improper advantage with customers or suppliers or to facilitate approvals from government officials. The Company's directors, officers and employees are also prohibited from receiving or providing gifts, gratuities, fees or bonuses as an inducement to attract or influence business activity. We must be cautious when giving gifts to customers, business partners and government representatives to avoid even the appearance of bribery or impropriety. You also should not give or accept gifts or entertainment if they reasonably may be considered to affect your judgment or performance of your duties, to influence business decisions, or to create a real or apparent sense of obligation.

We may give or accept business-related meals, entertainment and token gifts provide they: (a) are consistent with customary business practices; (b) is not excessive in value; (c) cannot be construed as a bribe or payoff; and (d) does not violate any laws or regulations. These principles apply to our transactions everywhere we do business. No cash gifts may ever be provided. Please discuss with our COO or CEO any entertainment or gift that you are not certain is appropriate.

VI. CONFIDENTIAL INFORMATION

Our directors, officers and employees will often come into contact with, or have possession of, confidential information about the Company or our suppliers, customers or affiliates, and they must take all appropriate steps to assure that the confidentiality of such information is maintained. Confidential information includes all nonpublic information that might be of use to competitors or harmful to the Company if disclosed. It also includes nonpublic information that our suppliers, customers or affiliates have entrusted to us.

Confidential information, whether it belongs to the Company or any of our suppliers, customers or affiliates, may include, among other things, strategic business plans, actual operating results, projections of future operating results, marketing strategies, customer lists, personnel records, proposed acquisitions and divestitures, new investments, changes in dividend policies, the proposed issuance of additional securities, management changes or manufacturing costs, processes and methods. Confidential information about our Company and other companies, individuals and entities must be treated with sensitivity and discretion and only be disclosed to persons within the Company whose positions require use of that information or if disclosure is required by applicable laws, rules and regulations.

You should also take care not to inadvertently disclose confidential information:

- Securely store any materials that contain confidential information, such as memos, notebooks, computer disks, mobile devices, memory sticks and laptop computers;

- Posting or discussing information concerning or business, information or prospects on the Internet is prohibited without proper authorization;

- Do not discuss our business information or prospects in any “chat room” or on social media, regardless of whether you use your own name or a pseudonym; and

- Be caution when discussing sensitive information in public places like elevators, airports, restaurants and “quasi-public” areas such as hallways outside of AudioEye offices.

All AudioEye emails, voicemails and other communications are presumed to be business confidential and should not be forwarded or otherwise disseminated outside of AudioEye, except where required for legitimate business purposes. You should consult with our COO or CEO concerning any confidential information that you believe may need to be disclosed to third parties under any applicable laws, rules or regulations.

VII. INSIDER TRADING

Trading in the Company’s securities is covered by the Company’s Insider Trading Policy, which Policy is hereby incorporated in its entirety in this Code. The Policy is acknowledged annually by all insiders of the Company. If you would like to receive a copy of the Insider Trading Policy or have any questions regarding such Policy, please contract our legal counsel.

VIII. PUBLIC DISCLOSURE OF INFORMATION REQUIRED BY THE SECURITIES LAWS

The Company is a public company that is required to file various reports and other documents with the SEC. An objective of this Code is to ensure full, fair, accurate, timely and understandable disclosure in the reports and other documents that we file with, or otherwise submit to, the SEC and in the press releases and other public communications that we distribute.

The federal securities laws, rules and regulations require the Company to maintain “disclosure controls and procedures,” which are controls and other procedures that are designed to ensure that financial information and non- financial information that is required to be disclosed by us in the reports that we file with or otherwise submit to the SEC (i) is recorded, processed, summarized and reported within the time periods required by applicable federal securities laws, rules and regulations and (ii) is accumulated and communicated to our management, including our President or COO or CEO, in a manner allowing timely decisions by them regarding required disclosure in the reports.

Some of our directors, officers and employees will be asked to assist management in the preparation and review of the reports that we file with the SEC, including recording, processing, summarizing and reporting to management information for inclusion in these reports. If you are asked to assist in this process, you must comply with all disclosure controls and procedures that are communicated to you by management regarding the preparation of these reports. You must also perform with diligence any responsibilities that are assigned to you by management in connection with the preparation and review of these reports, and you may be asked to sign a certification to the effect that you have performed your assigned responsibilities.

SEC regulations impose upon our President, CEO and COO various obligations in connection with annual and quarterly reports that we file with the SEC, including responsibility for:

- establishing and maintaining disclosure controls and procedures and internal control over financial reporting that, among other things, ensure that material information relating to the Company is made known to them on a timely basis;

- designing the Company's internal control over financial reporting to provide reasonable assurances that the Company's financial statements are fairly presented in conformity with generally accepted accounting principles;

- evaluating the effectiveness of the Company's disclosure controls and procedures and internal control over financial reporting;

- disclosing (i) specified deficiencies and weaknesses in the design or operation of the Company's internal control over financial reporting, (ii) fraud that involves management or other employees who have a significant role in the Company's internal control over financial reporting, and (iii) specified changes relating to the Company's internal control over financial reporting; and

- providing certifications in the Company's annual and quarterly reports regarding the above items and other specified matters.

This Code requires our President or CEO and COO to carry out their designated responsibilities in connection with our annual and quarterly reports, and this Code requires you, if asked, to assist our executive officers in performing their responsibilities under these SEC regulations.

IX. RECORD-KEEPING

The Company requires honest and accurate recording and reporting of information in order to make responsible business decisions. For example, only the true and actual number of hours worked should be reported. Also, business expense accounts must be documented and recorded accurately. If you are not sure whether a certain expense is legitimate, ask our COO.

All of the Company's books, records, accounts and financial statements must be maintained in reasonable detail, must accurately and appropriately reflect the Company's transactions and must conform both to applicable legal requirements and to the Company's internal control over financial reporting and disclosure controls and procedures. All transactions must be recorded in a manner that will present accurately and fairly our financial condition, results of operations and cash flows and that will permit us to prepare financial statements that are accurate, complete and in full compliance with applicable laws, rules and regulations. Unrecorded or "off the books" funds or assets should not be maintained unless expressly permitted by applicable laws, rules and regulations.

Business records and communications often become public, and we should avoid exaggeration, derogatory remarks, guesswork or inappropriate characterizations of people and companies that can be misunderstood. This applies equally to e-mail, internal memoranda and formal reports.

Records should be retained in accordance with the Company's record retention policies, and records should be destroyed only if expressly permitted by our record retention policies and applicable laws, rules and regulations. If you become the subject of a subpoena, lawsuit or governmental investigation relating to your work at the Company, please contact our CEO or COO immediately.

X. CORPORATE OPPORTUNITIES

Directors, officers and employees are prohibited from taking for themselves personally opportunities that are discovered through the use of the Company's property or confidential information or as a result of their position with the Company, except upon the prior written consent of the Board of Directors. No director, officer or employee may use corporate property, information or position for improper personal gain; no director, officer or employee may use Company contacts to advance his or her private business or personal interests at the expense of the Company or its customers, suppliers or affiliates; and no director, officer or employee may directly or indirectly compete with the Company. Directors, officers and employees owe a duty to the Company to advance its legitimate interests when the opportunity to do so arises.

XI. COMPETITION AND FAIR DEALING

We seek to outperform our competition fairly and honestly. We seek competitive advantage through superior performance, never through unethical or illegal business practices. Stealing proprietary information, possessing trade secret information that was obtained without the owner's consent, or inducing such disclosures by past or present employees of other companies is prohibited. It is a violation of federal law to engage in deceptive, unfair, or unethical practices and to make misrepresentations in connection with sales activities. Each director, officer and employee should endeavor to respect the rights of and deal fairly with the Company's customers, suppliers, competitors and affiliates. No director, officer or employee should take unfair advantage of anyone through manipulation, concealment, abuse of privileged information, misrepresentation of material facts or any other intentional unfair-dealing practice.

To maintain the Company's valuable reputation, compliance with our quality processes and safety requirements is essential. In the context of ethics, quality requires that our products and services be designed to meet our obligations to customers. All inspection and testing documents must be handled in accordance with all applicable laws, rules and regulations.

XII. PROTECTION AND PROPER USE OF COMPANY ASSETS

Directors, officers and employees should endeavor to protect the Company's assets and ensure their efficient use. Theft, carelessness and waste have a direct impact on the Company's profitability. Any suspected incident of fraud or theft should be immediately reported for investigation. Company equipment should not be used for non-Company business, though incidental personal use of items such as telephones and computers may be permitted pursuant to written policies approved by the Board of Directors.

The obligation of directors, officers and employees to protect the Company's assets includes its proprietary information. Proprietary information includes intellectual property such as trade secrets, patents, trademarks and copyrights, as well as business, marketing and service plans, engineering and manufacturing ideas, designs, databases, records, salary information and any unpublished financial data and reports. Unauthorized use or distribution of this information would violate Company policy. It could also be illegal and result in civil or even criminal penalties.

XIII. DISCRIMINATION AND HARASSMENT

The diversity of the Company's directors, officers and employees is a tremendous asset. We are firmly committed to providing equal opportunity in all aspects of employment and will not tolerate any illegal discrimination or harassment of any kind. Examples include derogatory comments based on racial or ethnic characteristics and unwelcome sexual advances.

XIV. HEALTH AND SAFETY

The Company strives to provide each director, officer and employee with a safe and healthful work environment. Each director, officer and employee has responsibility for maintaining a safe and healthy workplace for all other persons by following safety and health rules and practices and reporting accidents, injuries and unsafe equipment, practices or conditions.

Violence and threatening behavior are not permitted. Directors, officers and employees should report to work in condition to perform their duties, free from the influence of illegal drugs or alcohol. The use of illegal drugs or alcohol in the workplace will not be tolerated.

XV. WAIVERS AND AMENDMENTS OF THE CODE OF BUSINESS CONDUCT AND ETHICS

A waiver of any provision of this Code may be granted to any director, officer or employee only by the Company's Board of Directors, or a designated committee of the Board of Directors to the extent permitted by the rules of the NASDAQ Capital Market Exchange, and any such waiver promptly will be publicly disclosed to the extent required by law or stock exchange regulations.

This Code can be amended only by the Board of Directors, and any such amendment promptly will be publicly disclosed as required by law or stock exchange regulations.

XVI. ENFORCEMENT OF THE CODE OF BUSINESS CONDUCT AND ETHICS

A violation of this Code by any director, officer or employee will be subject to disciplinary action, including possible termination of employment. The degree of discipline imposed by the Company may be influenced by whether the person who violated this Code voluntarily disclosed the violation to the Company and cooperated with the Company in any subsequent investigation. In some cases, a violation of this Code may constitute a criminal offense that is subject to prosecution by federal or state authorities.

XVII. WHISTLEBLOWER PROTECTION

Directors, officers and employees should promptly report any unethical, dishonest, illegal acts or intentions, violations of the Company's codes, policies and procedures or compromise of the Company's reputation. The application information should be sent to whistleblower@audioeye.com. Complaints with respect to questionable accounting or auditing matters should be directed to the Chairman of the Audit Committee and sent to whistleblower@audioeye.com. All submissions will remain confidential.

If you ever have any doubt about whether your conduct or that of another person is unethical, dishonest, illegal, violates the Company's codes, policies and procedures or compromises of the Company's reputation, please discuss the issue with the Company's Chief Executive Office or Chief Operating Officer.

The Company will not allow retaliation for a report of any unethical, dishonest, illegal acts or intentions, violations of the Company's codes, policies and procedures or compromise of the Company's reputation, if the report about another person's conduct is made in good faith to a director, officer or employee or to whistleblower@audioeye.com. Directors, officers and employees are expected to cooperate during internal investigations regarding possible unethical, dishonest, illegal acts or intentions, violations of Company's codes, policies and procedures or compromise of the Company's reputation.

XVIII. COMPLIANCE STANDARDS AND PROCEDURES

If you have any questions or concerns related to the Code or wish to report any violations of the Code, the resources available to you include:

- Your manager. He or she may have the information you need or may be able to refer your question to another appropriate source.
- When you would prefer not to go to your manager, you should fee free to discuss your questions or concerns with the Chief Operating Officer.
- If you are uncomfortable contacting your manager or Chief Operating Officer, please contact our Chief Financial Officer.

If you become aware of a suspected or actual violation of this Code, you must report it immediately. You are expected to promptly provide a resource noted above with a specific description of the violation that you believe has occurred, including any information you have about the persons involved and the time of the violation. If there is an investigation, all employees are expected to cooperate any time they are approached during a Company investigation. This includes any employee whose conduct is the subject of an investigation. To the extent permitted by applicable law, failure to fully cooperate in an investigation may be viewed as grounds for disciplinary action, up to and including termination.

ACKNOWLEDGMENT AND CERTIFICATION

The undersigned hereby acknowledges and certifies that the undersigned:

i. has read and understands the AudioEye, Inc. Code of Business Conduct and Ethics (the "***Code of Ethics***");

ii. understands that AudioEye, Inc.'s CEO and COO are available to answer any questions the undersigned has regarding the Code of Ethics; and

iii. will continue to comply with the Code of Ethics for as long as the undersigned is subject thereto.

Signature: _____

Date: _____

Print Name: _____

[Code of Business Conduct and Ethics]

Exhibit 21.1

Subsidiaries

Name	Jurisdiction of Organization
Empire Technologies, LLC (1)	Arizona

(1) 100% owned

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the Registration Statements on Form S-8 [File No. 333-190871, 333-195471, and 333-200170] of our report dated March 27, 2019 with respect to the audited consolidated financial statements of AudioEye, Inc. appearing in this Annual Report on Form 10-K of AudioEye, Inc. for the year ended December 31, 2018.

/s/ MaloneBailey, LLP
www.malonebailey.com
Houston, Texas
March 27, 2019

Exhibit 31.1

CERTIFICATION UNDER SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Dr. Carr Bettis, Principal Executive Officer of AudioEye, Inc. (the " Registrant "), certify that:

1. I have reviewed this Annual Report on Form 10-K for the fiscal year ended December 31, 2018 of AudioEye, Inc. (the " Annual Report ");

2. Based on my knowledge, this Annual Report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this Annual Report;

3. Based on my knowledge, the financial statements, and other financial information included in this Annual Report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this Annual Report;

4. The Registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under my supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to me by others within those entities, particularly during the period in which this Annual Report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under my supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this Annual Report my conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this Annual Report based on such evaluation; and

(d) Disclosed in this report any change in the Registrant's internal control over financial reporting that occurred during the Registrant's most recent fiscal quarter (the Registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting; and

5. The Registrant's other certifying officer and I have disclosed, based on my most recent evaluation of internal control over financial reporting, to the Registrant's auditors and the audit committee of the Registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

Date: March 27, 2019

By: /s/ Dr. Carr Bettis
Name: Dr. Carr Bettis
Title: Principal Executive Officer and Principal Financial Officer

Exhibit 31.2

CERTIFICATION UNDER SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Dr. Carr Bettis, Principal Financial Officer of AudioEye, Inc. (the " Registrant "), certify that:

1. I have reviewed this Annual Report on Form 10-K for the fiscal year ended December 31, 2018 of AudioEye, Inc. (the " Annual Report ");

2. Based on my knowledge, this Annual Report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this Annual Report;

3. Based on my knowledge, the financial statements, and other financial information included in this Annual Report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this Annual Report;

4. The Registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under my supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to me by others within those entities, particularly during the period in which this Annual Report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under my supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this Annual Report my conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this Annual Report based on such evaluation; and

(d) Disclosed in this report any change in the Registrant's internal control over financial reporting that occurred during the Registrant's most recent fiscal quarter (the Registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting; and

5. The Registrant's other certifying officer and I have disclosed, based on my most recent evaluation of internal control over financial reporting, to the Registrant's auditors and the audit committee of the Registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

Date: March 27, 2019

By: /s/ Dr. Carr Bettis
Name: Dr. Carr Bettis
Title: Principal Executive Officer and Principal Financial Officer

Exhibit 32.1

CERTIFICATION UNDER SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the filing by AudioEye, Inc. (the " Registrant ") of its Annual Report on Form 10-K for the fiscal year ended December 31, 2018 (the " Annual Report ") with the Securities and Exchange Commission, I, Dr. Carr Bettis, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

(i) The Annual Report fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

(ii) The information contained in the Annual Report fairly presents, in all material respects, the financial condition and results of operations of the Registrant.

Date: March 27, 2019

By: /s/ Dr. Carr Bettis
Name: Dr. Carr Bettis
Title: Principal Executive Officer and Principal Financial Officer

A signed original of this written statement required by Section 906 has been provided to the Registrant and will be retained by the Registrant and furnished to the Securities and Exchange Commission or its staff upon request.

Exhibit 32.2

CERTIFICATION UNDER SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the filing by AudioEye, Inc. (the " Registrant ") of its Annual Report on Form 10-K for the fiscal year ended December 31, 2018 (the " Annual Report ") with the Securities and Exchange Commission, I, Dr. Carr Bettis, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

(i) The Annual Report fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

(ii) The information contained in the Annual Report fairly presents, in all material respects, the financial condition and results of operations of the Registrant.

Date: March 27, 2019

By: /s/ Dr. Carr Bettis
Name: Dr. Carr Bettis
Title: Principal Executive Officer and Principal Financial Officer

A signed original of this written statement required by Section 906 has been provided to the Registrant and will be retained by the Registrant and furnished to the Securities and Exchange Commission or its staff upon request.